52D ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

NOVEMBER 1, 1938

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1938

For sale by the Superintendent of Documents, Washington, D. C. - - - - - Price 60 cents (cloth)

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REPORT OF THE
INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C., *November 1, 1938.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its fifty-second annual report to the Congress. The period covered by this report extends from November 1, 1937, to October 31, 1938, except as otherwise noted.

A statement of appropriations and aggregate expenditures for the fiscal year ended June 30, 1938, is contained in appendix H to this report.

THE RAILROAD PROBLEM

During the year the "railroad problem" became increasingly acute. There are insistent demands that the Government do something to "solve" it. All manner of solutions have been proposed, but public opinion has not as yet concentrated upon any course of action.

The "problem" in this country is the product of railroad poverty. In its present phase it emerged with the beginning of the general economic depression about 8 years ago. Conditions grew rapidly worse until 1933, and thereafter slowly improved. In 1936 and the first part of 1937, ultimate recovery seemed visible on the horizon, but about 1 year ago, a serious relapse set in.

NATURE OF THE PROBLEM

A "railroad problem" is not peculiar to our own time or our own land. The more accurate term is "transportation problem." Every nation and every time has one of its own. They differ in character and intensity, but our own present problem is paralleled today in Great Britain, and similar problems exist all over the world. Here the background is the fact that the railroad industry has been one of our greatest institutions. Upon the transportation which it furnished, the nation has been built. Billions of dollars have gone into the industry, to a very great extent in the belief that it was a place where savings could safely be invested. Directly or indirectly, the larger

part of our population has a financial interest in it. Eighteen years ago it gave employment to as many as two million persons. It has been one of the great consumers of both raw materials and manufactured products.

At the present time, railroad companies operating about 31 percent of the total mileage are in bankruptcy or receivership. Of the remainder, only a fortunate few are paying dividends. A considerable number have been saved from bankruptcy for the time only by Government loans. Less than a million persons are now employed. A considerable mileage has been abandoned, and many other abandonments are in prospect. New construction is practically at a standstill. Purchases of materials, supplies, and equipment have been curtailed drastically. Adequate maintenance of the properties has in many instances been sacrificed.

Those who put their faith in the industry, including both investors and employees, are disheartened. Among the investors who have suffered severely are insurance companies, savings banks, and other fiduciary institutions. The curtailment of railroad purchases has been one of the important factors tending to intensify and prolong general industrial depression. These conditions have generated the widespread demand that the Government "solve" the "problem."

THE CAUSES

For the disorder, certain primary causes are responsible, aggravated by contributory factors. It is clear that railroad ills have been precipitated by an abrupt and continued decline in demand for railroad services, unparalleled in severity and duration. Taking ton-miles and passenger-miles as the measure, and using the average of 1923–25 as the base (100), the ton-mile index reached a low point of 49 in August 1932, and the passenger-mile index, a low point of 36 in March 1933. The freight index then rose gradually to 99.2 in March 1937, and the passenger index, to 69.6 in December of that year, but the former dropped to 65.7 in May of this year and the latter to 53.7 in August.

The general industrial depression was the primary cause of this fall in demand, but to the great depth of the fall another cause contributed heavily—the great increase in recent years in competition from other forms of transportation. The facts in regard to this are so well known that they need not here be recounted.[1] Other adverse influences which have operated against railroad traffic, not so well known but nevertheless of considerable importance, have been a tendency toward the decentralization or spreading of industrial operations, with consequent decrease in the amount of transportation

[1] See H. Doc. No. 583, 75th Cong., 3d Sess.

required for inbound raw materials and outbound manufactured products; the substitution of natural gas, hydro-electricity, and fuel oil for coal and the improved use of coal itself; the substitution, particularly in building operations, of products requiring short hauls, like cement, for products requiring long hauls, like steel, stone, or lumber; and the decline in tonnage of our exports and imports.

What has happened to the railroads with respect to traffic is strikingly illustrated by the fact that in 1936, when the index of industrial production averaged 105 percent of the 1923–25 base and reached 121 in December, the ton-mile index was 83.8 and the passenger-mile index, 61.1. In 1936, indeed, the railroads handled somewhat less freight traffic and much less passenger traffic than in 1916, although in the 20 intervening years the investment in their properties had increased by more than 8 billions of dollars. In considering these figures, it should further be borne in mind that the competition of other forms of transportation has decreased railroad revenues even more than traffic, for much traffic has been retained only by making reductions, often severe, in competitive rates.

The chief contributory factor to railroad distress, as distinguished from primary cause, has been the great volume of indebtedness. From its beginning the railroad industry has used borrowed funds in large proportion in the creation of its properties, with the result that the return paid to investors has to a very considerable extent taken the form of fixed interest on bonds instead of dividends on stock. There is no legal obligation to pay dividends, so that failure to earn them results only in loss for the time being to stockholders. But fixed interest is a contractual obligation, and failure to pay it may result in bankruptcy or receivership proceedings. Dividends and interest have been called the "wages of capital." When railroad earnings dropped with the great fall in the demand for their services, they could and did suspend payment of the portion of such wages represented by dividends, where necessary, but they could not suspend the portion represented by interest without default in enforcible legal obligations. In view of the relatively large volume of their indebtedness,[2] therefore, many railroads have been driven

[2] Certain misunderstandings in regard to this matter merit comment:

(1) The large amount of railroad debt and fixed charges is not the same thing as "overcapitalization." The latter word is often used to describe an excess of capitalization, i. e., amount of stock and evidences of indebtedness outstanding, over *cost* of properties, a situation caused ordinarily by the issue of "watered" stock. The railroads in the aggregate are not overcapitalized in that sense. The word is also used to describe an excess of capitalization over *value* of properties. Using as a measure "rate-making value," i. e., the amount on which the railroads are entitled as of right under the Constitution to an opportunity to earn a reasonable return, they are not overcapitalized. If commercial value, based upon present earning power, be used as the measure, they are overcapitalized, assuming the apparent estimate of that value in the present stock and bond market to be

into receivership or bankruptcy, and many more have curtailed expenditures drastically, often to the detriment of their properties, to escape such proceedings. This has been the most demoralizing feature of present railroad ills, and the one that has particularly attracted the attention of the country.

Another contributory factor to railroad distress has been financial exploitation or abuse in the past. The New Haven, the Frisco, and the Seaboard Air Line are illustrations. The two latter have always suffered, among other things, from overcapitalization in the worst sense of the word. The New Haven has suffered from ill-advised investments at extravagant prices in the securities of trolley, steamship, and other railroad properties during the Morgan-Mellen regime. Another illustration of financial abuse is the extravagant use of capital funds by certain eastern railroads in the 20's in the purchase of stocks of other railroads, in an endeavor to build up large systems or to forestall such efforts on the part of others.[3] These and other similar abuses have had a weakening effect on some railroads and have made it more difficult for them to bear the fall in demand for their services.

Other factors contributory to railroad ills were the failure of the managements for some time to appreciate the danger impending from the competition of other forms of transportation, and to adjust serv-

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correct. However, this has not always been so. and such estimates fluctuate continually and rapidly with changing conditions.

(2) This Commission had no control over the issue of railroad securities prior to the Transportation Act, 1920. In some quarters there seems to be an impression that no improvement in the debt situation was accomplished after the passage of that Act, and even that the Commission encouraged and promoted the issue of bonds in preference to stock. This is not the fact. From the end of 1920 to the end of 1936, stock increased $1,087,000,000 and bonds, $776,000,000. Investment in road and equipment increased $5,583,000,000. The ratio of funded debt to such investment was 56.7 percent in 1920, and 47.3 percent in 1936.

(3) The impression also prevails that if the railroads had established sinking funds for all of their bonds, outstanding funded debt would have been much less than it now is. Such funds could only have been accumulated out of earnings. As the figures under (2) above indicate, the railroads have ploughed back large amounts of surplus earnings into property. If such earnings had been depleted by accumulation of sinking funds, to that extent they would have been unavailable for investment in property and the issuance of additional securities would have been required. The normal inability of many railroads to market new stock would have made it necessary to issue additional bonds for this purpose.

[3] Much has been said in this connection about the operations of holding companies, particularly the Alleghany Corporation and others organized by the Van Sweringens and the Pennroad Corporation, affiliated with the Pennsylvania Railroad. It is to be noted, however, that while the operations of the latter harmed the stockholders of the Pennsylvania and others who were induced to invest in Pennroad stock, they had no directly harmful effect on the financial structure of the Pennsylvania or any other railroad. In part this is true of the operations of the Van Sweringen holding companies, to the extent that they were financed by the sale of their securities to the public. On the other hand, by way of illustration, the Pennsylvania Railroad was harmed by the acquisition of the Lehigh Valley and Wabash stocks, which were purchased through a wholly-owned holding company which the Pennsylvania provided with funds for the purpose, and the Baltimore & Ohio was harmed, so far as its financial structure is concerned, by similar purchases of Reading stock and other securities.

ice and rates to forestall or meet it; the fact that owing to their lack of credit in recent years, most of the railroads have been unable to modernize their equipment and facilities to the extent desirable; the construction of expensive passenger stations, such as those in Cleveland and Cincinnati; and the underlying fact that many railroad lines in the past were improvidently planned and projected, and some of them should never have been built. The coincidence of an increase of about 8 percent in railroad wages in the latter part of 1937 with an unanticipated precipitate fall in traffic aggravated and magnified the unfavorable financial results of that fall.

PROPOSED REMEDIES

All manner of remedies for railroad ills have been suggested. Many may be classed as nostrums, but others are worthy of attention. The trouble with most of them is that they are the product of limited information and a certain predisposition of opinion.

Less regulation.—The thought has been fathered by the railroads and is accepted by many investors that regulation has been carried beyond proper bounds. The chief complaint is that we have not allowed sufficient freedom in increasing rates, but there is also complaint that we have unduly hampered the managements in other respects with all manner of restrictions and requirements and by ponderous and slow procedure.

It is for others to pass judgment upon these complaints, and we shall merely recount certain facts. After the return of the railroads to private control in 1920, the Commission allowed them to make unprecedented increases in rates and fares,[4] in accordance with their desires, on top of already heavy increases which had been made during Federal control. The new rates had hardly gone into effect before business slumped and the railroads themselves began to reduce many of them. In 1921, the industries of the country with practically one voice asked for a general reduction, on the ground that the rates were stifling trade. In 1922, we reduced the increased rates by 10 percent, wherever they had not already been voluntarily reduced that much or more. The reduction coincided with an upturn in business. We refused to reduce the passenger fares, which in 1920 we had permitted to be increased to 3.6 cents per mile plus a pullman surcharge. It is now generally agreed that the managements were guilty of a grave error in judgment in maintaining these high fares for more than a decade thereafter in the face of continually falling passenger traffic.

[4] Freight rates were increased 40 percent in the East, 35 percent in the West (except mountain-Pacific territory), 25 percent in the South and in mountain-Pacific territory, and 33⅓ percent between territories.

After 1922, no general increase in railroad rates was sought until 1931. The railroads in the western district did in the meantime seek a horizontal increase of 5 percent, and this was denied, but only on the ground that an indiscriminate increase in all rates had not been justified in view of the manifest need for a discriminating readjustment of the rate structure. It was later charged that in this period we "whittled down" many individual rates, but the record showed that we had as often sanctioned increases as required reductions. During this period, the railroads in general prospered, and very liberal expenditures for maintenance on the part of many were impelled by the threat of the recapture clause of the Transportation Act, 1920, which clause has since been repealed.

In 1931, at a time when traffic and the general price level both were falling every day and competition with other forms of transportation was growing apace, the railroads sought a horizontal increase of 15 percent in all rates. In the circumstances we found that rates so increased would be unjust and unreasonable, but we did authorize a comprehensive system of lesser emergency surcharges. These expired in October 1933, but similar surcharges were renewed by our authorization in April 1935, and remained in effect with some modifications until the end of 1936. Many months in advance of the expiration of the surcharges we warned the railroads of the need for proposing a well-considered rate revision in lieu of these emergency surcharges, and they submitted a revision, designed to meet their future needs, shortly before the extended expiration date.

We approved most of these increases, especially on heavy basic commodities, in October 1937. By that time, however, the railroads had agreed to a considerable increase in wages, had suffered substantial increases in prices and taxes, and the bottom had begun to fall out of their traffic. This combination of circumstances had so disastrous an effect on net earnings that they came forward with a proposal for a horizontal increase of 15 percent in all freight rates, including those which had just been increased.

This proposal was in many respects like that of 1931, especially in the fact that it coincided with a severe decline of traffic. Circumstances differed in that there was less tendency to a decline in prices generally; wages had been increased by about 8 percent, whereas in 1931 they were about to be reduced 10 percent;[5] and there had been a heavy increase in taxes. We did not attempt to compensate for the abnormal drop in traffic, but did undertake to compensate for what appeared to be permanent increases in expense. In March 1938, we permitted most rates to be increased by a net 10 percent,

[5] This "deduction" had been restored prior to the 8 percent increase.

taking into consideration the increases of 1937, except that the rates on most farm products and lumber were increased only 5 percent.

After 1922, we permitted the railroads to maintain passenger fares at 3.6 cents per mile plus the pullman surcharge, until the western railroads voluntarily reduced the coach fare to 2 cents and the pullman fare to 3 cents, and the southern railroads made similar reductions (except that the coach fare was made 1.5 cents), and until the success of these experiments had been demonstrated. Thereafter, in 1935, we required the eastern railroads to reduce their coach fare to 2 cents and the pullman fare to 3 cents, with good results. In July 1938, however, we permitted these railroads to increase the coach fare to 2.5 cents for an experimental period of 18 months, with results which so far seem unfavorable.

This is the record with respect to the major rate increases since 1920. Opposed to the opinion of the railroads and investors that larger increases should have been permitted stands the sincere conviction of a large proportion of those who ship freight that many of the rates have become too high for either the railroads' or the public's health. The railroads have made much of the fact that average ton-mile revenue fell each year from 1923 to 1937, and that in the latter year it was only 31.5 percent above the 1916 level. Such comparisons are misleading, for the fall in the average since 1923 has been caused largely by the fact that in recent years the railroads have voluntarily reduced many rates to meet highway, water, and pipe-line competition, and have increased the severity of competition between themselves. The rates, however, on the traffic which still is affected little, if at all, by such competition have stayed up.[6] It is of these noncompetitive rates that shippers complain.

There is gross exaggeration in the idea that every act of the railroads is subject to regulation. The railroads have a large degree of initiative in the making of their rates, and have freely made a multitude of reductions to meet competition. We have no power to control their passenger service, and exercise very little control over their freight service. They select and pay their officers without supervision or hindrance. Nor do we undertake to tell them what equipment and supplies they may buy, how they shall operate their shops or maintain their tracks, what rails, ballast, and ties they shall use, what stations or other buildings they shall erect, what construction contracts they shall let, or how they shall manage their affairs in

[6] The railroads have without protest also permitted widespread publicity indicating that average ton-mile revenue is lower in this country than in many foreign countries and drawing the conclusion, expressly or by implication, that American railroads are superior in economy and efficiency. This conclusion cannot properly be drawn from such data, as average ton-mile revenues vary widely with the length of the haul and the character of the traffic. In foreign countries, the average haul is usually much shorter, more low-grade freight is carried by water, and the distinction which we make between express and freight is not maintained.

many other ways. The pattern of their regulation is in no way unique, but is substantially the same as is now applied generally throughout the country by the States or the Federal Government to other public utility companies.

Some have gone so far as to suggest that in view of the competition in transportation which now exists, it might be well to dispense with regulation. The railroads have never joined in that suggestion. Significantly, important classes of carriers which have been free from Federal regulation have of their own volition sought its protection. The Motor Carrier Act, 1935, was favored by the organizations of both the truck and the bus industries, and since its passage our rate-making powers thereunder have been invoked much more often by the motor carriers themselves than by the shippers. Similarly the air carriers were urgent in their support of the Civil Aeronautics Act, 1938. These two acts provide for the motor carriers and the air carriers, respectively, a system of regulation which is, if anything, more comprehensive than that which has been provided for the railroads.

Our procedure is in some respects slower and more cumbersome than we would like. In the exercise of the administrative process we are bound by the law of the land. We have learned by experience, as a result of many court reviews of our decisions, that we must exercise great care in the making of records and in the drafting of our reports. Those who seek reductions in railroad rates, however, have suffered much more severely from delays than have the railroads when seeking increases. The latter proceedings have been expedited at the expense of other work, and have been heard and decided as rapidly as their complexity and importance would permit. The industries and people of the country are vitally affected by nation-wide, horizontal increases in rates. They are entitled to a fair hearing before such increases are approved. They cannot be heard in the twinkling of an eye, and the evidence submitted must be considered.

Wages and working conditions.—There is a considerable body of opinion to the effect that the railroads are suffering from labor conditions that are arbitrary or unreasonable. This subject is beyond the province of this Commission, and statutes which we do not administer provide for the settlement of such controversies.

Financial reorganizations.—Many entertain the view that the great trouble with the railroads is their heavy load of indebtedness and fixed charges, which precipitates or threatens bankruptcies and destroys or impairs credit. They believe, therefore, that an adequate solution of the "railroad problem" will be found if this burden can be removed or at least greatly reduced. As has been seen, railroads operating 31 percent of the total mileage are now in bank-

ruptcy or receivership, and hence on their way to financial reorganization, at least two other important carriers (the Baltimore & Ohio and the Lehigh Valley) are endeavoring to secure a reduction of fixed charges through voluntary arrangements with their creditors, and it may be that still others will be able to effect reorganization through one or the other of these routes.

That such reorganizations will be helpful is quite clear. That they will constitute an adequate remedy for railroad troubles is not at all clear. While the present heavy indebtedness has been an important contributory factor to railroad distress, it has not been a primary cause, and reduction of the indebtedness will not go to the root of the matter.

Those who particularly regard "going through the wringer" as the means of railroad salvation contend that the new capitalization of a reorganized railroad company should be based primarily on the commercial or market value of the property, dependent on present and prospective earning power; that such value will now usually be found to be much below the recorded investment in the property and well below its "rate-making value"; that the new fixed charges should not exceed an amount which it is reasonable to believe could be paid in a period of depression; and that no securities of any class, bonds or stock, should be issued, unless it is reasonable to believe that in a normal period a return would be earned thereon. In most instances such a process of reorganization would wipe out the present stock equity, and perhaps the interests of some junior creditors.

If it be true that commercial value based on present and prospective earning power is well below both investment and "rate-making value," the conclusion necessarily follows that much of the existing property is, and will continue to be, operated at a loss. Obviously, also, no company can long continue to operate all of the existing property in such circumstances. The margin of safety is much too slight; the part of the property that can be operated at a profit cannot stand the strain which the inevitable fluctuations in traffic would throw upon it. Some of the load must be dropped, which means the discontinuance of unprofitable operations, to a considerable extent at least. The conditions which require a drastic shrinkage in capitalization will sooner or later require a like shrinkage in properties operated. In the absence, therefore, of improvement in the basic conditions which determine earning power, financial reorganizations cannot avoid the abandonment of much railroad property and consequent loss in railroad employment and service.

It may also be stated with assurance that if railroads are to be operated successfully under private ownership, they must have earnings sufficient to make not only their bonds but also their stock attractive to investors. Otherwise debt will mount until the bonds

lose their attraction and the carriers will again be on the road to bankruptcy. The system of private ownership and operation is dependent on the profit motive and will not work well unless, sooner or later, profits are forthcoming.

The holders of railroad bonds with few exceptions and many of the holders of railroad stocks bought for purposes of conservative investment. No one can contemplate the wiping out by reorganizations of the equities or interests of large groups of such holders without keenest regret. Such exclusions have been and will be necessary in not a few instances, but anything that can be done to minimize their number and importance is much to be desired. It is also to be borne in mind that a majority of railroad companies have so far been able to carry on, notwithstanding the prolonged depression, without bankruptcy or receivership but with impaired financial health. Their welfare also demands improved conditions.

For these and similar reasons it is clear that the "wringer" of drastic financial reorganization is not a complete, adequate, or wholly just answer to the "railroad problem," necessary as it may be in many instances.

There has been dissatisfaction with the slowness of railroad reorganizations under section 77 of the Bankruptcy Act. Before that section was enacted, several railroad companies had gone into equity receivership, where they still remain. Not one of them has been reorganized. This, however, is not a sufficient answer to the criticisms of the operation of section 77, for it was enacted in the expectation that it would, among other things, result in speedier reorganizations than had been customary under the equity procedure.

The properties, as such, of the railroads in bankruptcy have generally not suffered from the slowness of the reorganization process. They are in much better physical condition than they were when maintenance was being skimped in a desperate effort to keep out of bankruptcy, and it has also been possible to do more in the way of modernizing equipment. The failure to reorganize, however, is a hardship on the security-holders, and one that grows more grievous as time runs on.

Three principal reasons account for the slowness in effectuating reorganizations:

(1) The financial structure of most large railroad companies is exceedingly complex. There are usually many classes of creditors with widely varying claims variously secured by liens or collateral. To do justice in a reorganization to these numerous classes of creditors and to such classes of stockholders as may exist is a very difficult undertaking, and when a public tribunal has that task, much time is inevitably consumed in giving an adequate hearing and in assembling all of the pertinent facts, in addition to the time which

the security-holders themselves require in preparation for the presentation of their claims. The act requires the debtor to file a plan of reorganization with the Commission and permits other plans to be filed.

by the trustee or trustees, or by or on behalf of the creditors being not less than 10 per centum in amount of any class of creditors, or by or on behalf of any class of stockholders being not less than 10 per centum in amount of any such class, or with the consent of the Commission by any party in interest.

After such filing of plans, the Commission is required to "hold public hearings, at which opportunity shall be given to any interested party to be heard."

(2) Since the beginning of the depression, the future earnings of the railroads have been so impossible to forecast that the preparation of just and reasonable plans of reorganization has been extremely difficult. This may be illustrated by the events of the past year. After earnings reached the low point of 1932 they began a gradual ascent which continued until the middle of 1937. The reorganization plans filed with us were prepared in the light of this apparent trend. The increase in taxes, wages, and other expenses in 1937, however, combined with the precipitate drop of traffic in the latter part of that year, had so disastrous an effect on net earnings that many of the carefully wrought plans virtually became obsolete over night.

(3) In the initial administration of any new law, legal questions arise which hinder progress until they are determined. Time is consequently consumed in the decision of the early cases, and oftentimes in subsequent litigation, which is not required once stable precedents have been established.

We have endeavored to expedite the hearings in the numerous reorganization cases which are pending in every feasible way—often against the objection of many of the interested parties, and sometimes when all objected. The greater part of this preliminary work has now been done, however, and decisions are being rendered, as shown elsewhere in this report.

Financial exploitation.—Some voice the opinion that the underlying cause of the troubles of the railroads has been financial exploitation, and that if they can be freed from "banker control," they will be on the path to recovery. That there have been grave financial abuses in the past from which various railroads have suffered is sufficiently shown by our published reports. For reasons already stated, however, we do not regard such abuses as a primary cause of present railroad distress, although in some instances they have been an important contributory factor.

Banker influence on railroad managements has at times been marked, but not always bad, and there is little evidence that it is now dominant. For the time being the great railroad banker is the

Reconstruction Finance Corporation. How to get directors of the right calibre and character with adequate time to give to the office is one of the serious problems of private management. There is an evident tendency to remove railroad central offices from New York City, to relocate them in the heart of the territory served, and to choose directors from that territory. This tendency is in the right direction.

One means of protection against financial abuses for the future is constant vigilance on the part of the regulating authority. The record of the Commission in this respect is public. Prior to the World War, the investigations carried on by the Commission for the discovery and exposure of railroad financial abuses were noteworthy. When the railroads were taken over by the Government during the war period, however, a statutory basis of compensation was adopted which required an extensive audit by the Commission of railroad income accounts. The return of the railroads to private control was accompanied by a guarantee of net earnings which required a similar audit. Furthermore, the Transportation Act, 1920, provided for a recapture by the Government of excess railroad earnings, which likewise necessitated such an audit. In consequence, our accountants were very largely engaged in such work from 1918 to 1933. They saved the Government many millions of dollars, but they were diverted from their normal duties, including investigation of financial practices. Moreover, when the recapture provisions of section 15a were repealed in 1933, Congress cut our appropriation, and consequently our force of accountants, in half. Since that time, also, the services of some, and often many, of our accountants have almost continually been employed by Congressional investigating committees.

Notwithstanding these diversions from normal duties and the reduction of the force, we were able to conduct extensive financial investigations of the Denver & Rio Grande, the Chicago, Milwaukee & St. Paul, and the New York, New Haven & Hartford railroads, as well as various lesser inquiries of similar character. We brought to the attention of Congress, as early as 1929, the acquisition of control of various railroad companies by the Van Sweringen and Pennsylvania Railroad holding companies, and at the request of the House Committee on Interstate and Foreign Commerce we loaned accountants and other employees to assist in its subsequent investigation of this matter and, through our legislative committee, aided in the drafting of the 1933 amendments to the Interstate Commerce Act which restrained such acquisitions for the future. The investigation of railroad financial practices by the Senate Committee on Interstate Commerce, which began in 1935, has likewise been aided by many persons in our organization, chiefly accountants, more than half of whom were at times engaged in this work.

We can do even better and more effective work in the restraint of financial abuses in the future, if given an adequate appropriation and if circumstances permit the use of our accountants for their normal duties.

Modernization of equipment.—The view is entertained in some quarters that railroad equipment and facilities are largely obsolete or antiquated, and that carrying out an extensive program of modernization would enable the railroads to regain much ground lost in competition with other forms of transportation. Such views are likely to be expressed by those whose experience is chiefly with the passenger operations of the railroads, rather than the freight operations, which are and always have been of far more importance than the former and remain the chief source of railroad revenues.

Without intimate knowledge of this subject, as it is not within the immediate scope of our duties, we believe that railroad properties in general are less antiquated than some think, although capable of much improvement. A considerable number of locomotives and cars and much shop machinery could be replaced with modern equipment, if funds were available, with entire certainty of gain, and the same can be said of various changes in track curvatures and gradients, and in rails, ties, and ballast. Other changes in equipment and facilities are probably desirable, but need more tests in actual operation to demonstrate their advantages. Still other changes are visible in the distance and hold forth much promise, but are in the laboratory stage.

Much improvement in railroad passenger service has been made in the past few years, particularly in the air-conditioning of cars, speed, and the development of "streamlined" trains. The improvement has been more notable, however, in the field of long-haul, and particularly luxury, travel than elsewhere. The tendency is to abandon branch-line and short-haul main-line traffic to the bus and the automobile. In freight service there has been a great improvement in speed. The average speed of freight trains, exclusive of switching, was 12 miles per hour in 1920 and rose to 21.7 miles per hour in 1937. Some freight trains are now operated at passenger-train speeds, and locomotives are changed much less frequently at division points. Many railroads are using trucks in lieu of local way-freight service with much advantage.

The future seems to hold opportunities, among others, for electrification of lines with a high density of traffic, for other improvements in motive power, for reduction in the weight of equipment as special steels or other metals are further developed, for widespread use of containers interchangeable with highway and water carriers, for the use of small gas-propelled or other motive-power units for branch-line service, and for the development of light, attractive, and

comfortable self-propelled cars for short-haul passenger service. The railroads have suffered from the lack of a properly-equipped central research and engineering staff, such as many other large industries have, to concentrate on the development of better types of equipment and facilities and to promote a greater degree of standardization and simplified practice with respect, not only to the larger units of property, but also to materials and supplies.

While both the need for and the benefits of "modernization" have been exaggerated, therefore, it does offer opportunities for solid and substantial gain, which can be realized if the necessary funds can be made available.

Consolidation and coordination.—Our railroad service is provided by many large "systems" which are independently owned and operated, and by still more numerous smaller companies. Between the larger and also between many of the smaller communities, various of these systems are in keen competition. It is generally recognized that this situation is productive of a great amount of duplication and other forms of waste effort, and that large savings would result if this waste could be avoided. Two different methods of accomplishing this end have been advocated. For convenience, they may be called, respectively, consolidation and coordination.

"Consolidation," as the term is thus used, means an actual unification of companies under single ownership or control, so that they can be managed and operated as a unit. "Coordination," on the other hand, is used to describe cooperative action in a common interest at particular places or with respect to particular matters, but without actual unification of companies. Illustrations of coordination, now in effect, are the handling of all railroad express service through the railroad-controlled Railway Express Agency[7], the handling of all railroad sleeping and parlor car service through the Pullman Company[7], and numerous union stations and terminal companies.

The Transportation Act, 1920, contemplated the consolidation of the railroads of the continental United States into a "limited number of systems," and directed the Commission to prepare a plan for such consolidation, which it has done. The purpose in mind, however, was not so much to save expense as to bring the railroad carriers to something like a common level of financial strength, thus getting rid of the problem of the "weak sisters." In consequence, we were directed, in preparing the plan, to preserve competition "as fully as possible" and "wherever practicable" to maintain "existing routes and channels of trade and commerce," directions which were quite incompatible with the attainment of maximum economy. Moreover,

[7] In both instances the plan of coordination is capable of considerable improvement.

no means of enforcing the program were provided. Although the plan can be and has been changed, in our discretion, it evidently has not been attractive enough to managements and controlling interests to impel much voluntary action, and hence it has never been carried to fruition, although there has been some measure of accomplishment.

Attention has been directed to consolidation by what was done in Great Britain, following the World War. There the railroads were "amalgamated" into four regional, but materially overlapping, systems. The area of England, Scotland, and Wales is 88,745 square miles, as compared with 3,026,789 square miles in the continental United States (exclusive of Alaska), and in the latter there are about 12 miles of railroad main track for every mile in Great Britain. Under the British constitutional system, moreover, Parliament could accomplish the amalgamation without regard to fundamental obstacles present in our system. Even with these favorable conditions, difficulties arose which required much time to overcome. The task would be far less simple here. After the amalgamation, much competition between the systems still remained, and to eliminate the duplication and waste which this involved, coordination was brought into play. That is to say, with the consent and approval of the Government pooling agreements were entered into covering all competitive traffic. More recently, in the London area, by direction of Parliament wholesale consolidation and coordination have brought all manner of passenger transport services under one operating body.

Various possibilities in connection with consolidation or coordination or both may be considered. The extreme possibility is consoldation of all of the railroads of the continental United States into a single system, which would, of course, render unnecessary the consideration of coordination. Two nation-wide but competitive systems have also been suggested. Another plan which has received much attention would consolidate the roads into 7 systems, 2 in the East, 2 in the South, and 3 in the West. It could, as in Great Britain, be accompanied by coordination, in the form of pooling, with respect to competitive traffic. Other possible plans, such as were proposed in great detail by the Federal Coordinator of Transportation during his term of office (1933–1936), would lay more stress on coordination, leaving consolidations to the voluntary action of the railroads, subject to our supervision, or compelling them only in individual cases, as occasion might seem to require.

These possibilities have varying advantages and disadvantages. Theoretically, the duplications and waste now characteristic of our railroads could be wholly eliminated, if they were consolidated into a single system. Practically, such a consolidation could be accomplished only by compulsory legislation. It would be difficult to draft such legislation so that it would stand the test in court, more difficult

to obtain its enactment, and still more difficult to carry it into effect. Once put together, the system would be so huge that some fear that its efficient management would be a job for supermen. Certainly new and untried methods of organization would be required. There are those who believe, with some reason, that the intimate attention which good executives of compact railroad properties can give to employees, patrons, and the details of management may be worth as much, from the point of view of economy, as the savings made possible by great consolidations. To accomplish savings on any large scale, also, would involve a concentration of traffic over the best routes, which would leave on secondary channels many communities now located on main highways of commerce.

Similar objections may be offered to the consolidation of the roads into 7 huge systems, or some like number. In addition, such a plan would deprive a multitude of communities of railroad competition, but leave others in enjoyment of it. The present uneven distribution of competition would be accentuated, with enhanced danger that population and business would tend to concentrate at the favored points.

Resort to coordination, in preference to consolidations on any grand scale, would involve much less concentration of management and disturbance of general competitive conditions. The chances that much could be accomplished without compulsion would be greater, and any necessary legislation could be kept very largely within the limits of the regulatory power, without confronting the Government and the carriers with the financial problems necessarily encountered in any extensive program of compulsory consolidation. On the other hand, consideration of innumerable time-consuming details would be required.

Both consolidation and coordination are certain to encounter strong opposition. They are popular only with such railroad executives as believe they might survive the process without loss of position or prestige. Railroad employees are hostile, because they fear loss of employment. Many communities are inclined to opposition, because of apprehension that they might suffer some impairment of status as centers of railroad activity. Public opinion generally is suspicious of any limitations on competition.

We have no doubt that the present railroad set-up, with its great number of independent individual carriers, is inherently and seriously wasteful in many respects, and that real and important opportunities exist for greater economy and efficiency of service through consolidation or coordination or a combination of both. If the railroads were in the exuberant health of youth and the dominant factors in transportation which they used to be, such opportunities might be ignored. But that day has gone, and the choice for the railroads is

between continued retrogression and the marshalling of all resources in an endeavor to progress, if possible, and at least to hold their own. The opportunities which consolidation and coordination present must be utilized. Many practical difficulties stand in the way. Our general views as to how they may best be overcome are indicated hereinafter.

Competition.—As stated above, we regard the extraordinary increase in transportation competition as a primary cause of railroad ills. Whether it realizes it or not, the country has in fact experienced a transportation revolution in a very short space of time. The automotive highway vehicle has been the principal factor in this revolution. In the carriage of persons, it is now by far the most important means of transportation, and in the carriage of property it is growing in importance every day. While this remarkable development was taking place, the Panama Canal and the construction or improvement of many inland waterways added greatly to the sum total of water transportation, pipe lines were vastly extended and put to new uses, and air transportation was born and grew like Jack's bean stalk.

This transportation revolution has been characterized, also, by a tremendous growth of private transportation, as distinguished from common carriage for the public. Such private transportation predominates in the carriage of persons and has become a very large factor in the carriage of property. Many industrialists, including farmers, are served by their own motor vehicles or by contract carriers who do not serve the general public, and there is much similar transportation by water and air.

Private capital and enterprise have been responsible only in part for this transportation revolution. The extraordinary development of highway transportation could not have been accomplished, save for the expenditures of billions of Federal and State funds in the construction and maintenance of a network of paved highways covering the entire country. Public funds have likewise been responsible for the building of the Panama Canal and for the construction or improvement of many inland waterways, harbors, and docks. Similar aid has been given to air transportation.

The vast increase in the supply of transportation facilities thus accomplished was made without any general plans, prevision of results, or attempt to shape or control them on the part of the Government. The railroads are not the only carriers that have suffered from the conditions so created. The bankruptcy of a large number of the railroad companies has attracted much attention, but the fact is that the same malady has afflicted motor carriers, particularly those engaged in the carriage of property, certainly to as great an extent. Their general financial condition has been most distressing, and this has also been true of water carriers and air carriers in general. The

one exception has been the pipe lines, whose efficiency and low operating costs, together with favorable business affiliations, have made them very prosperous.

The carriers are engaged in a savage fight for business, and with little regard for relative operating costs. Broadly speaking, railroad terminal operations are so complex and expensive that for the shorter hauls the trucks have an advantage in economy as well as in flexibility and convenience of service. So far as economy is concerned, this advantage diminishes as the length of haul increases, until it disappears and then is replaced by a disadvantage. Contrariwise, water carriers gain in economy with length of haul more rapidly than the railroads, and where they carry full cargoes long distances between ports, as in the case of the coal, iron ore, and grain boats on the Great Lakes, the economy is so great that the railroads do not attempt to compete. However, keen competition exists in innumerable instances where one form of transportation has a clear, and often a large, advantage in cost, and the other can expect, at best, to earn only a margin over so-called out-of-pocket expense.

The extent to which carriage on such a marginal basis is increasing is one of the alarming aspects of the present transportation situation. The passenger traffic of the railroads, taken as a whole, is now handled on that basis, and so is the less-than-carload traffic, the express traffic, and much other traffic which is moved on rates depressed by water or highway competition.

While shippers have seemed to profit from the competitive reductions in rates, even this picture has its other side. The resulting instability in rates is a factor disturbing to business conditions. In the first annual report (1887) of the Commission, this statement was made, at page 6:

> Permanence of rates was also seen to be of very high importance to every man engaged in business enterprises, since without it business contracts were lottery ventures. It was also perceived that the absolute sum of the money charges exacted for transportation, if not clearly beyond the bounds of reason, was of inferior importance in comparison with the obtaining of rates that should be open, equal, relatively just as between places, and as steady as in the nature of things was practicable.

This has remained true of transportation charges. In addition the competition is rapidly undermining the general basis on which such charges have from time immemorial been constructed. Railroad freight rates have never conformed to any set design, but there are two principles which have been rather consistently, although roughly, applied. One was to take into account what the traffic will bear. Stating it differently, consideration has been given to what has been termed "value of the service" as well as cost, with the result that a disproportionate burden has often been placed on commodities of

relatively high value, on the theory that they could well bear such a burden for the benefit of commodities of lower value. The other principle—in reality a phase of the first—was to give a preference in relative level of rates, distance considered, to long-haul as compared with short-haul traffic.

The application of these principles has tended to increase freedom of movement of traffic in general and has been favorably regarded by the country. Manifestly, however, to the extent that it has resulted in rates disproportionately high from a cost standpoint, it has provided opportunities for competitors that might not otherwise have existed. Cost of service is the touch-stone of competition, and consequently it is rapidly disrupting a rate structure which was built on other principles. Naturally the reduced motor-compelled rates of the railroads have been chiefly confined to the shorter hauls, with a consequent tendency to maintain, and even to increase, the rates for the longer hauls, which are much less vulnerable to such competition. No doubt this has been one of the impelling reasons for the movement toward decentralization of industry which has gained such headway.

We have already adverted to the fact that the great increase in transportation facilities, so far as highway, water, and air carriage are concerned, has been produced to a very great extent by the expenditure of public funds. In determining the real cost and economic utility of the service which such facilities provide, these public expenditures must be taken into account. In considering a sound transportation policy for the nation for the future, the importance of this subject is manifest, particularly in view of the rapid growth of private transportation. It has been the cause of violent debate between the partisans of the various forms of transportation, but with the generation of more heat than light. The Federal Coordinator of Transportation, when he was in office, undertook an exhaustive inquiry into these public aids to transportation and we are informed that the results of that inquiry will be published within the next few months. They should at least furnish the basis for a more discriminating consideration of this matter than has hitherto been possible.

This general description of present competitive conditions in transportation will provide the background for the further discussion of the subject which is included below.

GENERAL CONCLUSIONS

The "railroad problem" is the product of economic conditions. It is not the same problem today as in former years, because these conditions continually change. Some of the present conditions, especially the general industrial depression, are of recent origin and doubtless are temporary in character. Others, such as the extraordi-

nary growth of other forms of transportation, have developed over a period of years, are permanent, and may be expected to wax rather than to wane. Still others, like the heavy burden of railroad indebtedness, have their roots in a distant past. It is quite idle to believe that a situation which has been created in this way can be "solved" out of hand, like a problem in geometry or a cross-word puzzle. The Government has no magic which enables it to sweep back the tide of economic change and reverse the results.

Nor can the Government confine its attention to the railroads. Its concern must be the transportation welfare of the country. It has no more interest in one form of transportation as such than in another, and its objective must be to secure for the country the most efficient and the most economical system of transportation possible, regardless of the agencies used. It goes without saying that water carriers, motor carriers, air carriers, and pipe lines have all contributed greatly to the improvement of transportation, and that their welfare is entitled to equal consideration with that of the railroads.

Basically, the financial condition of the railroads can be improved, apart from a Government subsidy, only by an increase in revenues or a decrease in expenses, or both.

Improvement in general business conditions can do more than anything else to increase railroad revenues. Recently there has been such an improvement, with benefit to many of the railroads, and it may be hoped that this will continue and grow. With distinct limitations, revenues may also be increased by raising rates. The opportunities in that direction have been explored, and rates have, with our sanction,[8] been increased to the extent hereinbefore indicated. Further increases may at any time be proposed by the railroads. Revenues can be increased to a minor extent by appropriate amendment of existing statutes to remove the requirement for land-grant reductions in connection with the movement of Government traffic, and such an amendment we favor. Reductions in rates may, under various conditions, add to revenues, but the railroads may now initiate such reductions, and this they have done very freely.

Wages constitute the largest item in railroad expenses. Possible reductions in wages have received consideration in the manner pro-

[8] The railroads have proposed changes in section 15a of the Interstate Commerce Act, for the purpose of limiting our discretion in passing upon rate increases, so that upon proof of low earnings approval of such increases would necessarily follow. We do not favor such an amendment, but suggest that the simple way to accomplish the real result desired would be to limit our authority to the fixing of minimum rates and the removal of unjust discrimination (using this term in its broad sense), leaving maximum rates to the discretion of the railroads. We venture to believe, however, that if such a change were made, the railroads would make limited use of the freedom so accorded. It is one thing to increase rates where the Government, through this Commission, shares the responsibility, and it is quite another thing for the managements, under present competitive conditions, to accept sole responsibility.

vided by the Railway Labor Act, with results which are a matter of recent history. Materials and supplies account for the remainder of operating expense, but the price level of commodities in general is not a matter which we are prepared to discuss.

Thus far we have mentioned only the means of increasing revenues or decreasing expenses which might seem to offer some promise of quick results. There are, however, as we have seen, other means less direct and speedy in their operation, but nevertheless of much importance from the standpoint, not of immediate, but of ultimate results. The question is whether the Government can and should do anything to promote or require the utilization of such means.

Modernization of equipment.—As already indicated, there is reason to believe that substantial opportunities exist for reducing expense and improving service, and hence for attracting more traffic and revenue, through the use of new motive power, cars, shop equipment, and perhaps other facilities. A committee made up of the chairman and two other members of this Commission in March of this year made a report (House Document No. 583, 75th Congress, 3d Session) to the President, at his request, in regard to the railroads and what could be done to help them. Among other things, it recommended that $300,000,000 be made immediately available for Government loans to be used in the purchase of such equipment, the latter to furnish the security for the advances.

This recommendation was made, we are informed, after a careful canvas of the situation which led the committee to believe that various railroads could and would use such loans, if made on sufficiently favorable terms, for purchases of immediate and substantial benefit to them, that the Government would suffer little or no eventual loss, and that the purchases would improve general business conditions materially. Under existing conditions, the use of Government credit for such a purpose and the accomplishment of such results is both defensible and desirable.

Financial reorganizations should further a similar end by enabling carriers to regain credit from private sources, and have the added benefit of strengthening the morale of the managements. For the latter, life begins anew with release from the jurisdiction of a court and the burdens of a heavy indebtedness.

Plainly the reorganizations of the bankrupt railroads must be pressed to completion as rapidly as possible. They must be of such character that the reorganized companies can hope to withstand recurrences of industrial depression and to be able to market even new issues of stock under normal conditions. Every reasonable effort should be made to protect existing security-holders, but not where their securities have clearly lost all value. The financial structures of railroads which continue to escape bankruptcy may to some extent

be improved by voluntary readjustments, and there is a further possibility of improvement in connection with subsequent consolidations.

Consolidation, coordination, and competition.—They make a serious mistake who regard the elimination of the wastes which are now inherent in the present railroad set-up and in the relations of all the agencies of transportation as a mere means of cheese-paring economy and depriving more men of work. Transportation success can never be the product of high rates and restricted service. As the makers of low-priced automotive vehicles fully demonstrated, there is no fixed amount of transportation to be performed, but rather an amount capable of indefinite expansion, provided the public can be offered sufficiently attractive service at a price which it is able to pay. Consolidation, coordination, and the better adjustment of competitive conditions will reduce transportation costs, but they can also open the door to the better service and lower prices which will create new business and employment.

Again the question is: What can the Government do to promote the results desired? With respect to consolidation and coordination, there are two extreme points of view. On the one hand, it is proposed by law to force consolidation of the railroads into a single system, or into a very few systems. On the other hand, it is proposed only to abolish the present consolidation plan, leave the initiative in consolidations and coordinations wholly to the railroads, and permit them to do as they see fit, subject only to the veto of the Commission.

We favor neither of these extremes. We do not believe that public opinion is ready for a spectacular major operation, such as is proposed in the first of these alternatives, or that its wisdom has as yet been sufficiently demonstrated. Nor do we believe that there is anything in their record which at all warrants a conclusion that the railroads can be depended upon to do what should be done wholly on their own initiative.

The undertaking is one, we believe, which calls for active leadership by the Government, as the sole agency which has no special interests to serve but only the general public interest. At the same time, no fixed program is possible or even desirable. The recommendations of the President's committee with respect to this matter in its report of last March were along generally sound lines. If these recommendations were followed, the way would be open, without any specific limitations, for consolidations such as the railroads might voluntarily initiate and as might be found to be in the public interest. In addition, we would have broad power to compel pooling of both earnings and traffic, and also coordinations of other descriptions.

No one can now be sure as to just what should be done, or how, and the undertaking cannot wisely be hurried. It calls for nego-

tiation and consideration of details, and also for education of the managements, the employees, and the public in general. Projects of this character cannot be crammed down the throats of those who must carry them out or conform to them. Legal compulsion can be used with advantage to bring recalcitrants and stragglers into line, but not to drive hostile majorities into action.

Much the same can be said of the present competitive transportation situation in general. If all of our present transportation facilities were blotted out and we could immediately substitute in their place a perfect system, undoubtedly each type of carrier would be used for the purposes for which it is best fitted, but not where some other type could better perform the service. In order to stimulate management, provisions might well be made for competition, but it would be confined carefully to situations where competition on comparatively equal terms is possible.

Our present transportation system, however, has not been so created. Considered as a whole, it has not grown up under a grand plan or attempt at integration. In consequence, it is quite unlike a machine with each part specially fitted to its particular function and all working perfectly together, but is little more than an aggregation of facilities, often ill suited to much of the work that they do and working at cross purposes or attempting mutual destruction more often than not. This is a common failing of human institutions and can be remedied only in part. The results fall so far short of the ideal, however, work such financial havoc with the carriers of all types, and are so inherently wasteful that an endeavor to improve these conditions, so that the carriers may furnish better service at lower cost and price with a consequent expansion of business, should stand well in the front of the transportation policy of the Government.

It is of both urgent and continuing importance that the relative economy and fitness of the various types of transportation carriers or kinds of transportation be examined and determined as well as the vastness and complexity of the subject permit, with a view to encouraging and promoting the use of each for purposes which it can serve best and most economically, while avoiding such use as is merely harmful to agencies better suited to the work. This examination would discover and lead to the development of many opportunities for joint and cooperative use of the various carriers and types of carriers. The result, if successful, would not eliminate competition, but would avoid it when the wasteful and destructive results would outweigh any benefiits. In effecting these improvements, the Government occupies a unique position in that it alone has power to prosecute such large-scale inquiries and to compel requisite action, while it is at once the party in interest and in a position of complete

impartiality. It is the more necessarily a governmental function, because the Government has itself become so important a factor in the development of new transportation facilities. As pointed out, highway and inland waterway transportation are both largely dependent on the expenditure of public funds, and the same is true to a lesser extent of air transportation. Any appraisal of the relative economy and real utility of the various types of carriers must clearly take into consideration the part of the capital cost which is borne by the Government and the extent to which this imposes a burden on general taxation.

This Commission in its regulation of the rates of rail and motor carriers and in certain other departments of its work, administers acts of Congress which can do much to further the results desired. But the problem is broader than mere regulation of rates and services. The activities of the Government itself in the development of transportation facilities are involved, and further legislation may be required. There is wide opportunity for conferences and negotiations with carriers and shippers, and for the promotion of voluntary action on the part of those directly concerned. These promotional activities are clearly not of the class of functions which have been laid upon the Commission by Congress.

This Commission is essentially a regulatory body. While its duties are chiefly quasi-legislative, as an agency of Congress, in the performance of most of them it necessarily functions somewhat after the manner of a court. Primarily it is occupied with the decision of a great volume of controversies, involving complicated issues of both fact and law, and requiring hearings, briefs, arguments, conferences, and ultimate decisions. Its discretion as to matters of general public policy is distinctly limited, even when it acts upon matters within the circumscribed area committed to it by Congress.

The essence of the situation is that a virtual revolution in transportation has occurred within a comparatively short period of time. No more extraordinary development of transportation facilities has ever been seen than has taken place in this country in the past 20 years. The results of this revolution have not been consolidated, and the revolution still progresses with attendant confusion and disturbance. There is need for readjustments between and within the different branches of the transportation industry, for consideration of present tendencies and their probable results, for the avoidance of uneconomic and wasteful practices, and in general for the determination, creation, and protection of the conditions most favorable to the development of a transportation system which will best serve the public interest. There is a field here both for continuing study and research and for active, aggressive, and consistent leadership on the part of the Gov-

ernment which has never been occupied. The real problem is to fill that void in the best possible way.

Summary.—We have endeavored in this comparatively brief discussion of a very large subject to point out the primary and contributing causes of what is called the "railroad problem" but is in reality a problem affecting in much the same way all forms of transportation. We have analyzed and discussed various means which have been suggested for the improvement of these unfortunate conditions. We have, finally, set forth certain conclusions. We have not undertaken to propose any "solution", but rather to indicate the opportunities which exist for improvement and what must be done, if these opportunities are to be utilized. The problem, as we see it, is not one which admits of any quick solution but is rather one which will succumb only to a well directed, well organized, and continuing campaign. It calls emphatically for the cooperation of the managements, security-holders, and employees of all types of carriers, shippers and other patrons, and the Government. We have not undertaken to specify how the campaign shall be organized and directed, or other details, believing that such matters can more appropriately be dealt with at other times and on other occasions, as the Congress may see fit to request our advice and assistance.

STATUS OF THE COMMISSION

In view of the recent rather widespread discussion of the general subject, a word as to the status of the Commission as a governmental agency may be appropriate. To some students of government, the so-called "independent establishment," to which category this Commission belongs, has been a source of vexation, mainly because not conforming to nicely-reasoned distinctions between the traditional triune functions of Government, and because it has the appearance of an "irresponsible" body not definitely answerable to any superior authority. Much is made of the alleged fact that it combines legislative, executive, and judicial functions, and that at times the independent establishment may have the office in the same cause of both prosecutor and judge.

The independent establishment is a natural development in response to practical necessities of the legislative branch of the Government. There was need for the legislative control of certain matters by the Congress, but the field was so extensive and complex that it was impossible for the Congress to undertake such control in detail. The Congress has solved this difficulty, where it has arisen, by enacting certain general principles or rules, and then creating an independent agency for the application of these rules to particular circumstances or situations.

In order that application of the general rules should be fair and impartial, the Congress has ordinarily required the agency, as a preliminary to action, to hold public hearings at which all concerned would have opportunity to present pertinent evidence. The Supreme Court has properly construed this requirement as involving the duty to base action on the records thus openly and publicly made. Moreover, the Congress has usually provided, as in the case of this Commission, that no more than a bare majority of the members should belong to the same political party, with staggered terms of office. The clear intent has been to create and preserve a nonpartisan and nonpolitical body. In many classes of cases the independent agencies are required to receive and pass upon important controversies in which some of the executive departments are interested litigants. A large number of such provisions are found in the acts we administer, and the list is continually growing.

It is not true that this results in an "irresponsible" body. This Commission is in fact responsible to three authorities. It is responsible to the Congress, to which it reports annually, and which can at any time change the general rules which it is the duty of the Commission to apply. It is responsible to the Federal courts, which can set aside action of the Commission, if they find that it has exceeded or misconstrued its powers, or if it acts arbitrarily. It is responsible to the President, in that he selects its membership with the advice and consent of the Senate, has power to remove members for inefficiency, neglect of duty, or malfeasance in office, and can at will supplant members, when their terms expire.

The great bulk of the duties of the Commission are quasi-legislative, i. e., they consist of the application of a general rule laid down by the Congress to specific cases. A few are quasi-judicial, such as the award of reparation for damage caused by unlawful rates and charges. A few duties are quasi-executive in nature, as in connection with the enforcement of statutory provisions or the Commission's own orders. The admixture of these other functions comes about from the fact that they are intimately related to the legislative duties, and require the same special knowledge, experience, and time for investigation. All quasi-judicial action of the Commission is subject to judicial review within well recognized principles, and all quasi-executive action to the ultimate discretion of the Department of Justice.

Confusion of thought has arisen because of the fact that in the performance of its quasi-legislative duties the Commission employs a procedure which resembles that employed by the courts. But use of such precedure does not change the functional nature of the duty from the standpoint of governmental administration. It remains quasi-legislative. Further confusion of thought is caused by the

fact that the Commission performs certain duties which may be classed as administrative from the standpoint of its own work, but which are nevertheless integrally part and parcel of the performance of its quasi-legislative duties. Thus, regulation of rates for the future is clearly a duty of the latter character, but it involves incidentally the filing and supervision of published tariffs and the procurement of the information necessary to such regulation from accounting and statistical sources.

As a result of long experience in and observation of public regulation of railroads and other public utility companies by both the Federal Government and the States, we are able to say without hesitation that in such regulation the thing of supreme importance is to keep it most scrupulously out of politics. Domination or influence of the regulatory body by either the executive or the legislative branch of the Government is certain to bring it within the political sphere with results unfortunate if not disastrous.

TRAFFIC AND EARNINGS OF TRANSPORT AGENCIES

During the calendar year 1937, all classes of steam railways regarded as one system had gross revenues and income amounting to nearly $4,417,000,000. They accrued for taxes $352,000,000, and for materials, depreciation, and other expenses of operation except pay roll, $1,367,000,000. This left nearly $2,698,000,000 to be shared by employees and investors. The pay roll chargeable to operations was nearly $1,967,000,000, or 72.89 percent, and the investors' share was $731,000,000, or 27.11 percent of these proceeds from operation and investments. The employees' share includes the salaries of all officials.[1] Of the investors' share, 78.94 percent was accrued for interest on bonds, 2.05 percent for rentals, and 4.72 percent for miscellaneous deductions, with a remainder of about $104,000,000 for the stockholder from the year's income. However, if account is taken of the loss on retired road and equipment and other items in the profit and loss adjustments the stockholders' share for 1937 is nearly eliminated.

The facts above given are succinctly summarized in the subjoined table.

[1] In 1937, the salaries of all executives, officials, and their staff assistants of class I railways amounted to $70,845,655.

Condensed income account of all classes of steam railways considered as one system, calendar year 1937

Item	Amount	
Revenues and other income		$4,416,990,696
Taxes	$352,047,524	
Cost of materials, depreciation, etc	1,367,110,112	
Total for taxes and expenses, except wages and salaries		1,719,157,636
Remainder to be divided between employees and investors		2,697,833,060
Wages and salaries	1,966,558,724	[1] 72.89
Investors' share	731,274,336	[1] 27.11
Total	2,697,833,060	[1] 100.00
Disposition of investors' share:		
Rent for leased roads	14,974,121	[1] 2.05
Interest on bonds	577,305,520	[1] 78.94
Other deductions (miscellaneous)	34,502,893	[1] 4.72
Net income for stockholders	104,491,802	[1] 14.29
	731,274,336	[1] 100.00

[1] Percent.

It may be noted that the investors' share of $731,274,336 is 3.86 percent of the par value of the net capitalization outstanding in the hands of the public at the close of the year 1937, which was $18,942,650,037. If the returns from operations only, amounting to $635,257,594, are compared with the "final" value of the property used in operations, amounting to $21,060,000,000 at the beginning of the year,[2] the rate of return is 3.02 percent.

Although from some points of view it is illuminating to regard the railways as one system with interrailway debits and credits eliminated, as has been done in the preceding analysis, it is necessary to consider also that in reality there are hundreds of separate railway companies or systems, each one with its own financial problems. The revenues, gross and net, are not evenly distributed. Although the industry viewed as a whole had little left over for the stockholder in 1937, 69 class I individual companies or systems reported a net income after fixed charges, while 62 others did not meet their fixed charges. They left some of the accrued "fixed" charges unpaid. Interest accruals are exceeding interest payments to the extent of about $100,000,000 a year at the present time and for the 5 years ended with 1937 aggregated $465,743,834.

Unfortunately the experience of the railways in 1938 has been more unfavorable than that of 1937. The decline in freight traffic which began in the second quarter of 1937 was accelerated in the third and fourth quarters of that year and there was a further decline in 1938 to the month of May. A modest recovery has taken place in recent months. The freight ton-mile index, with 1923–25 taken as 100 and adjusted for season was 99.2 for March, 90.0 for

[2] *Fifteen Percent Case, 1937–1938*, 226 I. C. C. 41, 163.

June, and 76.3 for December, 1937. It sank as low as 65.7 for May 1938, but recovered to 72.6 for September of this year. The freight carloadings for the first 9 months of the year were 24 percent less in 1938 than in 1937. This severe decline in rail freight traffic was primarily the result of the general economic recession. For the same months the Federal Reserve Board's indexes of industrial production averaged 115.5 in 1937 and 81.0 in 1938, a decline of 29.9 percent. The movement of freight by motortruck was also less in 1938 than in 1937. According to available statistics the decline was about 15 percent for the first 9 months,[3] 1938 under 1937, or less than for the railways.

The volume of passenger traffic has also been adversely affected by the 1937-38 industrial recession, but less promptly than the freight traffic. The December 1937 index for passenger miles, which was 69.6 on a 1923–25 base, was higher than that of any other month of that year. By June 1938 it had fallen to 56.1 and in September stood at 54.3. Fare increases authorized in 1937 and 1938 and elsewhere referred to in this report, appear to have had the effect of substantially reducing railway passenger travel.

The very poor financial results of operation in 1938 reflect this decline in both freight and passenger traffic and they were also unfavorably affected by an increase in wages late in 1937 amounting to about 8 percent.[4] The revenues and leading groups of expenses of class I railways are given below for 1938 as far as available.

Account	First 7 months of 1938	August 1938	September 1938	12 months ended with September 1938
	Millions	*Millions*	*Millions*	*Millions*
Operating revenues	$1,936	$315	$322	$3,566
Operating expenses:				
Maintenance	617	96	98	1,119
All other	937	134	134	1,660
Total	1,554	230	232	2,779
Taxes	197	29	29	330
Equipment and joint facility rents	76	11	11	130
Net railway operating income	109	45	50	327
Percent of increase or decrease, 1938 compared with similar periods ending in 1937:				
Revenues	[1] *21.0*	[1] *12.3*	[1] *11.1*	[1] *17.0*
Expenses:				
Maintenance	[1] *21.0*	[1] *19.3*	[1] *14.3*	[1] *15.9*
All other	[1] *10.3*	[1] *10.4*	[1] *9.6*	[1] *7.4*
Total	[1] *14.8*	[1] *14.4*	[1] *11.7*	[1] *11.0*
Net railway operating income	[1] *69.7*	[1] *10.6*	[1] *15.5*	[1] *53.5*

[1] Decrease.

[3] Based on incomplete returns published by the American Trucking Association. More complete motor-carrier statistics should be available in the future on the basis of report forms which have recently been adopted by us for this purpose.

[4] On October 29, 1938, an Emergency Board appointed by the President under the Railway Labor Act, recommended that railway wages should not be decreased at this time.

From this it appears that the percent of decline in revenues in August and September was less than for the first 7 months. Also, the net railway operating income for the 12 months ended with September 1938 was $326,805,183, or 45.0 percent less than for the (partly overlapping) calendar year 1937. Maintenance expenses, including depreciation, were curtailed in 1938 in comparison with 1937 in the same proportion as the revenues, but the decrease for other expenses was relatively less. Included in maintenance is the charge for depreciation which amounted to $197,005,542 in 1937. The taxes shown as $329,710,270 for the 12-month period ended with September 1938 include the cost to the railways of old age retirement and unemployment insurance. These two items amounted to $92,568,141.

The average revenue for hauling a ton a mile, 0.935 cents in 1937, was 4.0 percent lower than the 1936 average of 0.974 cents, the removal of the surcharge at the close of 1936 having had more effect than the rate changes of 1937 in combination with changes in the nature of traffic. But for the first quarter of 1938, there was an increase in the ton-mile revenue of 2.6 percent and in the second quarter of 6.3 percent over the corresponding averages of 1937. April was the first month in which the rate increases of 1938 were completely in effect, which accounts for the larger percentage for the second quarter. However, these increases in ton-mile revenue are not accurate measures of the change in rate levels because of fluctuations in the nature of the traffic handled and length of haul. The rate increases of 1937 and 1938 were estimated by the carriers to have added $244,496,000 a year to freight revenue with the 1936 volume of traffic, which is 7.7 percent of the 1936 freight revenue after exclusion of the surcharge. But as the volume of traffic has been lower in 1938 than in 1936, the aggregate amount of the estimated increase has not been realized.

The average revenue per passenger-mile for traffic other than communtation was 1.95 cents for 1937 compared with 2.02 cents for 1936 and 3.29 cents for 1929, the 1937 average being 40.7 percent below that of 1929. Corresponding figures by districts follow. The showing for the first 7 months of 1938 does not reflect the recent advance in eastern passenger fares.

Period	Eastern district	Southern district	Western district	All districts
Calendar year:	*Cents*	*Cents*	*Cents*	*Cents*
1929	3.47	3.36	3.04	3.29
1936	2.33	1.80	1.73	2.02
1937	2.18	1.82	1.72	1.95
Percent, 1937 under 1929	37.18	45.83	43.42	40.73
First 7 months:				
1937	2.19	1.82	1.74	1.96
1938	2.21	2.08	1.82	2.05
Percent, 1938 over 1937	.91	14.29	4.60	4.59

Our index of railway employment, adjusted for season, decreased in 1938 from 56.0 for January to 50.1 in June and increased slightly to 52.8 for September. These represent percentages of the 1923–25 average and reflect partly the decline in the importance of railways and partly the effect of technological improvements since 1923. The number employed by class I railways at the middle of September 1938 was 963,494, which was 14.96 percent less than in September 1937. For the maintenance of equipment group the corresponding percent of decline was 20.82.

For the fiscal year ended with July 1938 the net deficit after fixed (and contingent) charges was $141,196,599 in contrast with a net income of $98,526,717 for the calendar year 1937. For the 7-month period ended with July 1938, 29 class I railways reported a net income and 104 a net deficit after fixed charges. The number of all classes of steam railway (excluding switching and terminal companies) in reorganization or receivership on July 31, 1938, was 111 with an operated mileage of 78,016, or about 31 percent of the total miles of road operated. This sharp decline in net income has been rendered more serious for the roads than the declines in the earlier part of the depression because of the still further impairment in working capital. In 1930 at the outset of the depression, the class I roads had current assets of $1,510,975,288 against current liabilities (including tax liability) of $1,392,866,497, or a net working capital of $118,000,000. At the end of 1937 the current liabilities (including tax liability) had increased to $2,140,190,763 and the current assets had fallen to $1,143,989,650, or a net deficit of working capital amounting to over $996,000,000. By far the most important factor in this change, however, is the growth of unpaid matured interest charges and of funded debt matured and unpaid which are classed as current liabilities and are found chiefly where receiverships and trusteeships are in effect. Excluding these items, the railroads had current assets of $1,510,975.288 at the end of 1930 as against current liabilities (including tax liability) of $1,115,759,273. In 1937 the current assets on this basis were $1,143,989,650 and the current liabilities $960,582,619. In the earlier year the current assets exceeded the current liabilities by $395,000,000, and in the later years by $183,000,000. The decline in the net working capital during the period, therefore, after excluding the funded debt matured and unpaid and matured and unpaid interest has exceeded $212,000,000.

An increase in operating revenues in 1937 over 1936 was experienced by all classes of carriers which filed annual reports with us, except electric railways.

Class of carriers	Operating revenues		Net earnings from operations after taxes but before fixed charges	
	Amount for 1937	Percent of change from preceding year	Amount for 1937	Percent of change from preceding year
Water lines	$108,479,042	+3.98	$1,052,713	−77.81
Express companies	109,616,620	+6.90	1,575,774	+6.82
Pullman Co	64,241,381	+10.22	4,219,117	+22.14
Pipe lines	248,645,057	+13.51	110,441,246	+16.88
Electric railways	57,472,222	−1.96	1,785,734	−61.80
Steam railways [1]	4,226,325,000	+2.86	597,841,000	−11.51

[1] Classes I, II, and III.

No annual reports were required by us of motor carriers for 1937. Motor-vehicle registrations were higher in 1937 than in 1936 by 5.26 percent for passenger cars and 6.72 percent for trucks.[5] From 1936 to 1937 domestic scheduled air lines increased by 2.42 percent the pounds of express and freight carried, by 16.66 percent the ton-miles of mail carried, by 10.42 percent the number of passengers, and by 3.60 percent the number of airplane miles flown on domestic routes.[6]

In contrast with the large decline in steam-railway traffic and truck-freight traffic in 1938 compared with 1937, previously noted, the domestic demand for motor fuel was for the first 8 months, only 0.39 percent less in 1938 than in 1937, and for August 1938 was slightly greater than for August 1937.[7] For domestic air lines the number of ton-miles of mail carried was 10.83 percent greater in 1938 than in 1937 for the first 7 months, the number of passengers carried was 20.40 percent greater, and the amount of express 12.29 percent less.

A more comprehensive view of the importance of various transportation agencies is shown by a consideration of their annual expenditures. This basis makes it possible to include all common, contract, and private carriers in one comparison. It has been necessary to resort to estimates for certain items for which regular statistics are not kept. The operating expenses, depreciation, and taxes of all carriers aggregated $22,245,000,000 for the calendar year 1937. Of the 1937 total, rail operations accounted for but 19.77 percent in contrast with 75.04 percent for all highway operators, which, it is especially to be noted, include those within cities. Waterway lines

[5] Automobile Facts and Figures, Automobile Manufacturers Association.
[6] Air Commerce Bulletin, Department of Commerce.
[7] Bureau of Mines, Monthly Petroleum Statement No. 175.

represent 4.36 percent of the total and pipe lines but 0.62 percent. The figures for the more important items are given below.

Item	Amount	1937
	Millions	*Percent*
Rail operations [1]	$4,397	19.77
Highway motortrucks, common and contract	708	3.18
Private trucks, not for hire	3,830	17.22
Privately owned automobiles	11,477	51.59
All other highway	678	3.05
Waterway operations	971	4.36
Airways	46	.21
Pipe lines (fuel and gasoline)	138	.62
Total	22,245	100.00

[1] Includes interurban and urban electric railways and bus operations associated therewith.

CLASS RATE READJUSTMENTS

Ocean-rail rates between southwestern and North Atlantic ports.—In the revision referred to in our last annual report certain southwestern rail carriers proposed to restrict the ocean-rail class rates between points in the southwest and North Atlantic ports, over routes through South Atlantic and Gulf ports, so that they would apply only from and to docks or piers at the North Atlantic ports and would not include any service or expense embraced in delivery of traffic to or from those docks or piers. In our report of May 2, 1938, 227 I. C. C. 317, we found that such restriction was not justified, and reversed a finding to the contrary in a previous report, 225 I. C. C. 789.

Southern class rates.—The general investigation into the class rates within southern territory and to and from official territory, instituted in 1937 after consideration of petitions by State commissions and other interests in the South, as indicated in our last annual report, had been held in abeyance awaiting the readiness of interested parties to proceed. It now has been discontinued without prejudice to future consideration in an investigation of the matters involved on our own motion or on complaint.

Western-Southern class rates.—A report was issued, 226 I. C. C. 497, as the result of our investigation of the all-rail interterritorial class rates between points in western trunk-line territory, combined with southern Missouri, and points in southern territory. We found that the class rates on this traffic, most of which now moves on the combination basis, were unreasonable, and having also found that joint through class rates were necessary and desirable in the public interest, we prescribed as reasonable maximum for the future a comprehensive adjustment of joint interterritorial rates. This adjustment is now required to be made effective by February 7, 1939.

To Montana from western trunk-line and official territories.—On March 9, 1938, we issued our report, 226 I. C. C. 467, with respect to

these class rates, finding that, for the purpose of determining reasonable maximum rates from the above origins, eastern Montana should be treated as western trunk-line Zone III and central Montana as western trunk-line Zone IV. Subsequently, on petition of the defendant carriers, the proceeding was reopened for further argument, and our order prescribing rates on the above basis was postponed until further order. Such reargument was held, October 6, 1938, and the matter of final disposition is pending.

DROUGHT RELIEF RATES

As indicated in our last report, by 1937 the widespread drought conditions which in previous years had presented such an emergency as to lead to the voluntary establishment by the western railroads of reduced rates on livestock, feeds, and seeds under authority of orders entered by us under section 22 (1) of the Interstate Commerce Act, had improved to such an extent that the additional relief which we were called upon to authorize during that year was confined principally to particular situations where the effects of the previous conditions continued to be felt. The only drought relief orders entered during the present year covered modifications of the areas or of the expiration dates designated in connection with the relief authorized in 1937, the relief authorized by virtue of such modifications having expired October 31, 1938, or earlier.

COOPERATION OF FEDERAL AND STATE COMMISSIONS

Since our last report we have cooperated with State commissions in 10 proceedings involving interstate-intrastate rate relations. Of these six were complaints filed with us in respect of rates in effect and four were investigation and suspension proceedings arising out of orders issued by us and by State commissions suspending the effective dates of rates proposed by carriers. In these proceedings we had the cooperation of seven different State commissions.

A cooperating committee of commissioners selected by the States participated in the hearings, oral argument, and subsequent disposition of *Ex parte No. 123, Fifteen Percent case, 1937–1938*, decided March 8, 1938, *Eastern Passenger Fares in Coaches*, decided April 4, 1938, and *Ex parte No. 125, Increased Pullman Fares and Charges*, 1937, decided June 20, 1938, elsewhere referred to in this report. Similar cooperation is planned in *Ex parte No. 126, Express Rates, 1938*, wherein hearings were held during August and September 1938, at principal cities throughout the country, and in *Ex parte No. 115, General Commodity Rate Increases, 1937*, wherein hearings have been held and argument heard upon the railroads' petition for modification of our findings and order of October 19, 1937 (223

I. C. C. 657), to permit the increased rates of bituminous coal approved in that proceeding to continue without expiration date.

We have also received cooperation from State commissions in six proceedings involving the abandonment of railroad lines. Cooperation with State commissions under the provisions of part II, the Motor Carrier Act, 1935, is treated separately in the chapter relating to the bureau of motor carriers.

FREIGHT FORWARDING COMPANIES

In our annual reports for 1930 and 1931 we advised of the results of an informal investigation conducted in 1930 into the operations and practices of freight-forwarding companies, which are engaged in the business of consolidating into carload lots for shipment over the railroads freight most or all of which otherwise would be tendered to the rail carriers for transportation in less-than-carload quantities. At that time we pointed to certain practices which appeared to us to be contrary to the public interest, and recommended that such companies be brought under our jurisdiction.

In our annual report for 1937 we stated that in docket No. 27365, *Freight Forwarding Investigation*, we had instituted an investigation into the practices of class I railroads in connection with the handling of freight in consolidated carloads offered by such forwarding companies, for the purpose of determining whether the rates, charges, rules, regulations, and practices of the respondent rail carriers were inconsistent with honest, economical, and efficient management or were unjust, unreasonable, or in any respect in violation of law; and that one of our examiners had recommended findings that the practices of the rail lines in connection with such shipments were in numerous respects unlawful.

On October 11, 1938, we adopted a report in that investigation, wherein we found various practices of respondent rail carriers in respect of forwarder traffic to be in violation of the Interstate Commerce Act, and an order was entered requiring their removal. That report reveals that the gross revenue collected by the three principal forwarding companies from the transportation of forwarder traffic in 1936 aggregated about $102,000,000, equal to about 45 percent of the total revenue received by the railroads of the country in that year from their less-than-carload shipments; and that the transportation charges paid by those three companies for forwarder traffic in that year constituted about 82 percent of their total gross revenue, of which $58,500,000 was paid to rail carriers for line-haul service and the remainder to water and motor carriers, the payments to motor carriers embracing both line-haul and terminal or collection and delivery services.

We further found in that report no persuasive reason why the rail lines could not, by appropriate cooperative effort, furnish an efficient service on less-than-carload traffic, including collection and delivery thereof, either by themselves or through one or more wholly owned and controlled agencies, such as the Railway Express Agency, at less-than-carload rates specially designed to attract such traffic, and thus retain for themselves the entire profits from such service.

We found further that, should the rail lines fail to perform such service, whereby traffic which is now being handled by the forwarder, together with the present regular less-than-carload traffic, will be handled under a basis of graduated quantity rates adjusted in such manner that the less-than-carload shipper can ship in his own name and be treated the same as any other shipper in less-than-carload lots, then and in that event the only effective means of correcting many of the abuses practiced by the forwarding companies will be by the enactment of legislation regulating the forwarder so as to prohibit unreasonable, unjustly discriminatory, and unduly prejudicial and preferential rates, charges, rules, and practices, and regulating specifically the relations between the forwarder and other transportation companies.

Insufficient time has elapsed to permit the rail carriers to determine upon the policy which they intend to pursue with respect to forwarder traffic as a result of that report.

PICK-UP AND DELIVERY SERVICE

Until the early part of the last decade it was the general practice of the railroads of the United States to transport less-than-carload traffic from and to their regularly constituted freight stations only, although based on particular local conditions there had been occasional exceptions. At that time the inroads on that traffic by the developing motor transport, with its unified transportation service from and to the shipper's door offering an advantage quickly recognized by shippers, forced the railroads to give consideration to extending to shippers a similarly completed service on such traffic. Beginning in 1931 southern and western railroads, and in 1932–33 the Boston & Maine, Pennsylvania, and certain other eastern railroads, experimentally established pick-up and delivery service by which they undertook, to the extent deemed necessary to meet motor-truck competition, to truck less-than-carload shipments to and from their freight stations from and to the shipper's door and without charge for the additional service except for the longer rail hauls.

As above indicated, the object of the railroads in establishing the service was to arrest the decline in their less-than-carload traffic which they believed to be due to the development of motor trans-

portation and the advantage of the unified service rendered by that form of transportation. Evidence introduced in the proceeding cited below indicates that following the inauguration in 1932–33 of the limited pick-up and delivery service by certain eastern railroads their less-than-carload tonnages and revenues increased or the downward trend therein was halted, while on certain other railroads which had not established the service the downward trend continued, and that there was an increasing use of the service by the shippers to whom it was available. Apparently the results of the experiment proved encouraging also to the western and southern railroads, for in the early part of 1936 they broadened the service to apply throughout the territories served by them without charge in addition to the station-to-station rates and irrespective of the length of the rail hauls. They also provided for the payment of allowances, in lieu of the pick-up or delivery service, to shippers who elected to perform this service themselves. Later in that year eastern railroads proposed similar extension of the pick-up and delivery service, with allowances to shippers who performed the service instead of requiring the railroads to do so, throughout eastern territory. After investigation into the lawfulness of the then existing service in this territory and of the proposed schedules which we had suspended, the schedules were found justified, subject to the observance in connection with the service, of a somewhat higher minimum rate than that proposed and to certain minor exceptions. *Pick-up and Delivery in Official Territory*, 218 I. C. C. 441, decided October 15, 1936. By this approval we recognized the right of the railroads, under the circumstances disclosed, to deal with the competitive situation by rendering the completed service and maintaining rates therefor lower than we could require, provided some earnings would result therefrom.

Thus there became available to rail shippers between all important communities throughout the country a complete transportation service under which the truck is used for the account of the railroad for the transportation between the shipper's door and the freight station, and the railroad is used for the station-to-station transportation at the same charge for the total service as for station-to-station service.

This situation has continued up to the present time with one exception here noted. Effective August 15 of this year certain eastern railroads, principally the New York Central and its system lines, the Boston & Maine, the Canadian Pacific, the Delaware & Hudson, and the Maine Central, discontinued free pick-up and delivery service and the payment of allowances to shippers in lieu thereof, and, although still continuing to perform pick-up and delivery service, have provided for the assessment of charges for such service, to be

applied in addition to the station-to-station rates, ranging from 5 to 10 cents per 100 pounds, depending on the population of the community served. In explanation of such change these particular carriers advised that they considered that they were not obtaining adequate revenue on this traffic from the station-to-station rates and that even assuming that indicated increases in less-than-carload gross revenues for 1937 as compared with 1936 could be attributed entirely to the rendition of pick-up and delivery service without additional charge, they had concluded that any gain in gross revenues on that account was more than offset by the expenses of the pick-up and delivery service. As the other railroads throughout the country have made no such change in their pick-up and delivery practices they apparently do not share in that view. However, aside from this indicated divergence of opinion among the railroads as to whether or not their interests require that they make a charge for the pick-up and delivery service in addition to the station-to-station rate, the general rendition of such service in connection with line-haul rail transportation now seems to have become an established practice.

RAILROAD CREDIT CORPORATION

The liquidation of the Railroad Credit Corporation, referred to in our last report, has proceeded during the year. Of the original emergency revenue, $56,971,440.11 or 77½ percent has been returned to carriers participating in the plan. The balance remaining in the fund on October 31, 1938, was $20,149,631.96.

INVESTIGATIONS

Reports have been made and published in the following investigations, instituted on our own motion:

Switching Rates in the Chicago Switching District (225 I. C. C. 75).

Western-Southern Class Rates, concerning the class rates applicable on interstate commerce, all rail, including the charges resulting therefrom between points in western trunk-line and southern territories (226 I. C. C. 497).

Into and concerning the practices of the Pittsburgh, Lisbon & Western Railroad Co., the Youngstown & Suburban Ry. Co., Montour Railroad Co., and the Pittsburgh Coal Co., to determine whether the rates, rules, regulations, practices, and matters complained of, or any of them, are unlawful in violation of the Interstate Commerce Act, and to determine what rates, or what maximum or minimum, or maximum and minimum rates shall be prescribed, or what rules, regulations, or practices shall be prescribed, or what orders shall be entered, to remove any unlawfulness found to exist (227 I. C. C. 73).

Accounting by St. Joseph Belt Ry. Co. for certain land deeded to it (227 I. C. C. 394).

Into and concerning the interstate class rates and the charges resulting therefrom now in effect within southern territory and between southern territory and official territory, with a view to determining whether said rates are unjust, unreasonable, unduly prejudicial, unduly preferential, or otherwise in violation of the Interstate Commerce Act. *Southern Class Rates, 1937.* Discontinued by order April 11, 1938.

Other investigations are pending, some of the more important of which are:

Eastern Brick cases, concerning the all-rail interstate rates and the charges resulting therefrom on the articles included in the uniform brick list, on common brick, and the definition of common brick, prescribed in *National Paving Brick Mfrs. Assn.* v. *Alabama & V. Ry. Co.*, 68 I. C. C. 213, within official classification territory defined in *Increased rates, 1920*, (58 I. C. C. 220, 225), as the eastern group, and in addition all of Illinois, west-bank upper Mississippi River crossings in Missouri and Iowa, the St. Louis brick-producing district, and west-bank Lake Michigan ports in Wisconsin and Michigan.

General Commodity Rate Increases, 1937, Ex Parte, No. 115.

Into and concerning cost finding in transportation service with a view to determining whether the Commission shall require all or any common and contract carriers subject to part I or part II of the Interstate Commerce Act to file special or annual reports for cost-finding purposes in accordance with the plan recommended by the Federal Coordinator of Transportation, and hereinbefore referred to, or some other plan, and to prescribe such forms of accounts, records, or memoranda, to be kept by all or any said carriers, as may be necessary or desirable in connection therewith. *Ex parte No. 122.*

Fifteen Percent case, 1937, Ex parte No. 123.

Express Rates, 1938, Ex parte No. 126.

Ex parte No. 127.

Into and concerning the status of said stockyard companies as common carriers by railroad subject to the Interstate Commerce Act, in respect to the transportation services performed at said stockyards in connection with the unloading and loading of carload shipments of livestock transported by railroad in interstate commerce to and from the public yards of said stockyard companies.

Refrigeration charges on fruits, vegetables, berries, and melons, from the West.

Ex parte No. 104.

Practices of carriers by railroad subject to the Interstate Commerce Act affecting operating revenues or expenses.

Reduced Pipe Line Rates and Gathering Charges.

Concerning the reasonableness and lawfulness otherwise of existing through routes and joint rates, rules, regulations, and practices for application by common carriers by railroad and by common carriers by water operating upon the Mississippi and Warrior Rivers and their tributaries; the reasonableness of existing minimum differentials between all-rail rates and corresponding rail-barge, barge-rail and rail-barge-rail rates; the necessity, if any, for the establishment by the aforesaid common carriers by railroad and by water of additional through routes and joint rates, rules, regulations, and practices; and for the fixing of reasonable minimum differentials, if any, between the corresponding all-rail rates and any such additional through routes and joint rates.

In the matter of divisions of joint interterritorial rates between official and southern territories.

Into and concerning any and all charges (other than line-haul rates), rules, regulations, practices, and services of common carriers by railroad in connection with the handling of coal for lake shipment, for the purpose of determining whether any of such charges, rules, regulations, or practices are or will be unreasonable, unjustly discriminatory, unduly prejudicial or preferential, or otherwise in violation of any of the provisions of the Interstate Commerce Act; and, if so, what charges, or maximum or minimum charges, and what rules, regulations, or practices shall be prescribed to be charged or observed in order to remove such unlawfulness as may be found to exist.

Into and concerning the rates, charges, rules, regulations and practices of common carriers by railroad, affecting and incident to the transportation of freight in consolidated carloads moving at carload rates, having particular reference to the relation between railroads and carloading or freight forwarding companies.

Into and concerning the question of reasonable and otherwise lawful rates for application to the transportation of wrought iron and wrought-steel pipe and fittings and related articles, in straight and mixed carloads, between the points embraced in No. 13535 et al., for the purpose of making such findings and entering such order or orders as the facts found to exist shall appear to require, said several articles being as follows:

Pipe, steel or wrought iron, welded or seamless.
Pipe, plate, or sheet.
Pipe, riveted, steel, or wrought iron.
Pipe connections, couplings, and fittings, iron or steel, not plated, or iron or steel body, not plated.
Meter, stopcock, and valve boxes, cast iron.
Connecting bolts and nuts, washers, packing or wedges in barrels, boxes, kegs, or burlap bags, in mixed carloads with cast-iron pipe and/or fittings.

Iron-body well-pipe screens or strainers.

Valves, iron or iron body.

Concerning rates, charges, rules, regulations, and practices of common carriers by railroad and common carriers by motor vehicle and the minimum charges, rules, regulations, and practices of contract carriers by motor vehicle, with respect to the transportation of petroleum and petroleum products in interstate commerce in carloads and truckloads, from origins in California to destinations in Arizona.

Concerning rates, charges, rules, regulations, and practices of common carriers by railroad and common carriers by motor vehicle and the minimum charges, rules, regulations and practices of contract carriers by motor vehicle, with respect to the transportation of naval stores in interstate commerce in carloads and truck loads, from Columbia and Hattiesburg, Miss., to Gulfport, Miss.; from Laurel, Miss., to Mobile, Ala.; and from Columbia, Miss., to New Orleans, La.

Into and concerning the rates, charges, rules, regulations, and practices, affecting, and incident to, payments by the New York Central R. R. Co. to the Dillonvale & Smithfield Ry. Co. under the provision in Agent Roy S. Kern's tariff, I. C. C. No. 49, Page 79, reference mark 9 encircled, or substantially similar provisions contained in other tariffs, for the purpose of determining whether said rates, charges, rules, regulations, and practices are in any respect unlawful in violation of any of the provisions of the Interstate Commerce Act.

Into and concerning the holdings of common carrier securities, financial and other operations, and practices, of the Alleghany Corporation, the Chesapeake Corporation, Robert R. Young, Frank F. Kolbe, and Alan P. Kirby, particularly as they relate to the Chesapeake and Ohio Ry. Co., The New York, Chicago and St. Louis R. R. Co., and the Missouri Pacific R. R. Co., and other railroads, subject to the Interstate Commerce Act, in order to determine the jurisdiction of this Commission over the said corporations as now existing and as proposed to be consolidated, and the said Robert R. Young, Frank F. Kolbe, and Alan P. Kirby, with a view to the making of a report and such order as may be found warranted under section 5, including paragraph 11 thereof, or other provisions of the Interstate Commerce Act, or other orders as may be appropriate upon the record.

In the matter of application for approval of proposed modification of systems or devices under paragraph (b), section 26 of the Interstate Commerce Act as amended.

Into and concerning the lawfulness of the rates, charges, rules, regulations, and practices in regard to storage of cocoa beans in New York District, as published in *The Central Railroad Company of New Jersey*, I. C. C. G–No. 5010; I. C. C. G–No. 5159; *Lehigh*

Valley Railroad Company, I. C. C. No. C–8851; *New York, Ontario and Western Railway Company*, I. C. C. No. 10012; with a view to determining whether said rates, charges, rules, regulations, and practices are in violation of any provision of the Interstate Commerce Act, and with a view to making such order, or orders, or taking such other action in the premises as may be warranted by the record.

Into and concerning the lawfulness of the rates, charges, classifications, regulations, and practices applicable to the transportation of carpets and carpeting, viz, linoleum or cork, or felt base, asphalted or wood fibre base, impregnated and decorated, by railroad and by motor vehicle, or jointly by railroad and water carriers, or jointly by motor vehicle and water carriers, from official territory to southern territory, with a view to determining whether the said rates, charges, classifications, regulations, and practices, or any of them, applicable to such transportation, are in any respect in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

Accounting for Pullman air-conditioning.

INTRASTATE RATE CASES

Reports have been made and published in the following proceedings instituted by us under section 13 of the act:

Rates on Sand, Gravel, Crushed Stone, and Chert Within the State of South Carolina, 226 I. C. C. 625; 227 I. C. C. 538.

Cement (Neville Island), P. & O. V. Junction and Universal, Pa., to Pittsburgh, Pa., 227 I. C. C. 635.

The following investigations under section 13 of the act are pending:

To determine whether the rates on whiting required by the public utility commissioners of the State of New Jersey to be maintained by said petitioners, other than the Baltimore & Ohio R. R. Co., Reading Co., and the Staten Island Rapid Transit Co., from Camden, N. J., to all destinations on their lines within the State of New Jersey, cause, or will cause, any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand, and interstate or foreign commerce on the other, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce.

Fertilizer and Fertilizer Materials in Mississippi.

Intrastate Coarse Grain Rates in Texas.

Intrastate Class Rates In North Carolina.

Mississippi Sand and Gravel Rates.

Intrastate Rates on Anthracite in Pennsylvania.

Increases on Mississippi Freight Rates and Charges.
Increases on Texas Freight Rates and Charges.
Increases in Louisiana Freight Rates and Charges.
Increases in Kansas Freight Rates and Charges.
Increases in Arkansas Freight Rates and Charges.

ADMISSIONS TO PRACTICE

During the year ended October 15, 1938, 1,378 applicants were admitted to practice before the Commission. This exceeded by 71 the number of applicants admitted in the preceding year, ending October 15, 1937, which was considerably in excess of the number admitted in any preceding year since the first following setting up a roll of practitioners, 1929–30. Of the number admitted during this period, 1,144 were members of the bar of the Supreme Court of the United States or the highest court of some State, and 234 were admitted upon a showing of qualifications under rule I–B 2 (b) of the Rules of Practice. Since the establishment of the register of practitioners, September 1, 1929, a total of 10,254 persons have been admitted to practice, of whom 60.8 percent were members of the bar, and 4,023, or 39.2 percent, were nonlawyers found to be qualified.

In our preceding reports we have pointed out the growing tendency for lawyer applicants to outnumber materially the nonlawyers who seek admission. This tendency has strengthened in the past year. Since the passage of the Motor Carrier Act, 1935, about 2,500 practitioners have been added to our roll above the normal number which might have been expected, based on the averages for preceding years. Of the total number admitted in the last 3 years, 82.5 percent have been members of the bar of some of the high courts.

During the year we have pursued the policy outlined in prior reports of securing the benefit of the independent investigation of individual applications by committees of the Association of Practitioners before the Commission, and have received the recommendations of those committees.

Experience has shown that it has become desirable to subject the nonlawyer applicants to examinations as to their qualifications. Such examinations will be conducted three times a year, at the offices of the Commission in Washington, or upon request, at some field office. The examinations will test the applicant's knowledge of (1) the structure and history of the Interstate Commerce Act and related acts, (2) the Rules of Practice, (3) the general rules of evidence, (4) the leading cases involving the commerce clause of the Constitution and the Interstate Commerce Act, and their significance, and (5) the principles of legal ethics. We expect to continue to receive the cooperation of the committees of the Association of Practitioners in investigating the standing of applicants, both lawyers and nonlawyers.

The passing upon applications for admission to practice has become somewhat of a burden, and appropriate provision of law should be made to enable us to impose a reasonable fee, to be covered into the miscellaneous receipts of the public Treasury, which would compensate for the time and expense involved, and would suffice to deter those who have no intention of making use of the privilege. Admissions might well be made to run for limited periods, with the privilege of renewal upon a showing of continued possession of the qualifications initially required as prerequisites to admission. The roll of practitioners would thereby be made up of persons who were active and who preserved good standing.

CODIFICATION OF REGULATIONS

By the act of Congress approved June 19, 1937, section 11 of the Federal Register Act was amended to require each agency of the Government to file with the administrative committee appointed under that act, not later than July 1, 1938:

> A complete codification of all documents which, in the opinion of the agency, have general applicability and legal effect and which have been issued or promulgated by such agency and are in force and effect and relied upon by such agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities on June 1, 1938.

After a report thereon by the committee to the President, the codification may be authorized and directed by the President to be published in special or supplemental editions of the Federal Register:

The codified documents, when so published:

> Shall be prima facie evidence of the text of such documents and of the fact that they are in full force and effect on and after the date of publication thereof.

Pursuant to the act the codification of regulations was compiled and transmitted on June 30, 1938.

We will keep the code current, as required by the Federal Register Act, in the form and style prescribed by the regulations promulgated by the committee and approved by the President on May 26, 1938, as amended October 11, 1938.

Since June 1, 1938, the following documents have been transmitted in the form and style of the approved regulations:

> Order of July 1, 1938, prescribing Rules and Regulations governing transfers of rights to operate as a motor carrier in interstate or foreign commerce.
>
> Order of July 1, 1938, prescribing Form BMC 41, Application under Motor Carrier Act, 1935, other than under Sections 210a (b) and 213 thereof, for substitution of prospective purchaser in lieu of applicant or to transfer certificate of public convenience and necessity, permit, or certain state operating rights. Vacates orders of April 28, 1936, relating to Forms BMC 26 and 27.

Order of July 1, 1938, prescribing Form BMC 42, Application under Motor Carrier Act, 1935, other than under Sections 210a (b) and 213 thereof, to contract to operate or to lease operating rights, certificate of public convenience and necessity, or permit.

Order of July 1, 1938, prescribing Form BMC 43, notification of transfer of operating rights pursuant to Rule 7 (a) of Rules and Regulations under Motor Carrier Act, 1935, other than Sections 210a (b) and 213 thereof, governing transfers of rights to operate as a motor carrier in interstate or foreign commerce.

Order of June 10, 1938, postponing effective date with reference to certain provisions of the order entered in Docket No. 15780, *Depreciation Charges of Carriers by Water.*

Orders of June 17, 1938, and September 13, 1938, postponing the effective date of order entered in Docket No. 24049, *A. Johnson, Grand Chief Engineer of the Brotherhood of Locomotive Engineers* v. *Atchison, Topeka and Santa Fe Railway Company, et al.,* as to use of mechanical stokers upon locomotives.

Orders of July 12, and July 15, 1938, re maximum hours of service of motor carrier employees.

Order of July 9, 1938, amending regulations with respect to safety glass on motor vehicles.

Order of July 9, 1938, postponing effective date of the second paragraph of rule 27 of Tariff Circular 20.

Order of August 1, 1938, in the matter of statistical reports of class I motor carriers of passengers.

Order of August 1, 1938, in the matter of statistical reports of class I motor carriers of property.

Order of September 26, 1938, postponing effective date of order of July 12, 1938, in the matter of maximum hours of service of motor carrier employees.

Order of September 29, 1938, amending Special Circular M. No. 1.

Order of September 29, 1938, in the matter of regulations concerning the class of employees and subordinate officials that are to be included within the term "employee" under the Railway Labor Act—Red Caps.

Order of October 20, 1938, in the matter of statistical reports of carriers by water.

Order of October 20, 1938, in the matter of statistical reports of pipe line companies.

STANDARD TIME ZONE INVESTIGATION

Since our last annual report, no formal matter involving standard time has come before us, and no change has been made in our outstanding order defining the limits of the several zones under the terms of the Standard Time Act (49 Stat. 450).

For the past several years we have recommended additional legislation to accomplish the stated purpose of that act, namely, "to provide standard time for the United States." The difficulty and confusion caused by the prescription of varying and conflicting standards of time by State statute or local ordinance differing from the standard of time prescribed under the act continues unabated, and we reiterate our previous recommendations that the legislative field be more completely occupied by act of Congress.

FIFTEEN PERCENT CASE, 1937–1938

On November 8, 1937, we instituted a proceeding of investigation with respect to the proposals in a petition filed November 5, 1937, by substantially all the class I railroads, their subsidiaries and certain electric lines and a supplemental petition of the American Short Line Railroad Association in behalf of its member lines, seeking authority to increase all existing freight rates and charges generally 15 percent, subject to certain exceptions, and to increase passenger fares in eastern territory for transportation in coaches to 2.5 cents per passenger-mile. These petitions were also supported by a number of water carriers.

Hearings began November 29, 1937, and extended intermittently until January 24, 1938, being held at Washington, D. C.; Atlanta, Ga.; Chicago, Ill.; El Paso, Tex.; Los Angeles, Calif.; New Orleans, La.; Portland, Oreg.; and Salt Lake City, Utah. The record included 5,775 pages of testimony and 177 exhibits, as well as 48 affidavits. Oral argument upon the evidence occupied 9 days and was concluded February 9, 1938. Twenty-seven days later on March 8, 1938, our decision was announced, 226 I. C. C. 41.

We found that as a whole the proposal of a general 15 percent increase in freight rates had not been justified by the applicants, but that with exceptions presently to be noted existing rates and charges increased 10 percent would be just and reasonable for the future. On certain products of agriculture, on certain animals and the products thereof, on cottonseed oil and certain other vegetable oils, and on lumber, shingles, lath, and articles taking lumber rates the increase was limited to 5 percent. An increase of 10 cents per net ton in rates on anthracite coal was approved. No increase whatever was permitted in rates on bituminous coal, lignite, coke, and iron ore, which had been increased in the latter part of 1937, together with those on a number of other commodities under authority granted in *General Commodity Rate Increase, 1937*, 223 I. C. C. 657. As to other commodities involved in the decision last mentioned our findings provided that the increases in rates therein approved should be taken into account and considered as part of the increases authorized in this decision. The increased rates approved in this proceeding generally became effective March 28, 1938, and have remained in effect since except for routine revision of individual rates.

With respect to the proposal concerning passenger fares in eastern territory in a separate report, *Eastern Passenger Fares in Coaches*, 227 I. C. C. 17, we found the increased fares not justified. Subsequently, however, upon further hearing and in view of the continued decline in the revenues of the eastern railroads, we permitted an increase in their passenger fares as proposed for an experimental period of 18 months (227 I. C. C. 685).

PULLMAN FARES AND CHARGES

On November 22, 1937, the Pullman Co. applied for our approval of an increase of 10 percent in all of its sleeping-car and parlor-car rates, fares, and charges, and for permission to file special supplements carrying into effect that proposal. We instituted an investigation, docketed as *Ex Parte No. 125*, and after a series of hearings conducted in Washington, D. C.; Los Angeles, Calif.; Portland, Oreg.; Salt Lake City, Utah; New Orleans, La.; and Chicago, Ill.; on June 20, 1938, adopted our report therein, *Increased Pullman Fares and Charges, 1937*, 227 I. C. C. 644.

The chief support for the authority sought rested upon applicant's alleged need for increased revenue by reason of recent increases in costs of materials and supplies and in wages and taxes, comparable in character and amount with those which have occurred upon the railways. Wage increases became effective August 1, 1937, and certain changes in rules and working conditions of porters took effect October 1, 1937. Had such increased expenses and taxes applied throughout 1937, the net operating income of the applicant from all sources for that year would have been reduced from the actual amount derived, $4,219,117, to $1,603,379, which would have amounted to a return of 0.64 percent based on applicant's undepreciated investment, and of 1.07 percent based on the January 1, 1937, value based upon our findings. On the same basis, but adjusted to give effect to the proposed 10 percent increase, applicant estimated a rate of return of 2.08 percent on investment and 3.49 percent on value could be derived.

The applicant has no bonded indebtedness, and no fixed interest charges. Its credit position appeared to be favorable. Its capital securities are in the form of common stock, of which a total of $108,135,000 is outstanding, as compared with an investment (undepreciated) of about $252,000,000, and a property value approximating $150,000,000.

Because of the low rate of return on both investment and value reflected by the adjusted net operating income for the latest periods of record, we determined that the applicant was entitled to some additional revenue from the sale of its Pullman accommodations. Apparently some additional revenue could be derived by increasing certain so-called subnormal rates to the general and normal level. We found that a general increase of 10 percent in all of applicant's rates, fares, and charges would produce a larger amount of revenue than reasonably necessary to meet the purposes of the increase, and would result in unjust and unreasonable rates, but that an increase of 5 percent in such rates, fares, and charges would result in a just and reasonable adjustment, without prejudice to an increase in the so-

called subnormal rates, where practicable, to the normal level, subject to protest and suspension.

In the argument the statement was made for the applicant that, although the rate basis for upper berths is 80 percent of the corresponding lower-berth rate, the ratio of upper-berth to lower-berth sales is the equivalent of only about 1 to 5. Despite efforts to popularize use of upper berths, the occupancy of them is relatively small. In our report we observed that the revenue results to both the applicant and the railroads would be enhanced if the average car occupancy could be increased by additional passengers who are now unwilling to pay the greater cost of lower-berth service, and suggested for applicant's consideration the advisability of widening the present price spread between the lower and upper berths by not increasing the charges for the latter, at least to the full extent authorized.

The uniform 5-percent increase authorized became effective August 1, 1938, except that, in accord with the foregoing suggestion, no increase was made in the charges for upper berths. Thus far the so-called subnormal rates have not been further increased.

BUREAU OF ACCOUNTS

Attention has been directed in our last three annual reports to the assistance rendered the Senate Committee on Interstate Commerce by the Bureau's accountants in the investigation of railroad financial practices under Senate Resolution 71. This investigation has continued to engage the services of our accountants. The number continuously employed during the year in this work under the direction of the committee's chief counsel averaged 12 employees (approximately one-tenth of the Bureau's field force). Since the beginning of this investigation in July 1935, employees of the Bureau have been engaged thereon a total of 44,543 man-days.

In the prosecution of our duties under section 77 of the Bankruptcy Act, as amended, in connection with the financial reorganization of bankrupt railroad corporations, the Bureau of Accounts has submitted 52 reports of special accounting investigations of 7 bankrupt companies, including the accounts of 45 subsidiary companies.

In the performance of its regular duties under section 20 of the Interstate Commerce Act, the Bureau has made general investigations of the accounts of 106 rail carriers and, in addition, has made 49 other special investigations of various kinds to secure information necessary in the work of the Commission.

General field investigations are the most effective means at our command of enforcing uniform compliance with our accounting regulations, but under present conditions the effectiveness of this work is seriously impaired by our inability to make them as frequently as they should be made. In the case of carriers other than the rail-

roads, subject to our jurisdiction, we have not been able to make such investigations at all. These conditions have prevailed in the past and will continue until the Bureau is granted an appropriation large enough to permit the employment of much needed additional accountants. In previous reports we have repeatedly directed attention to this fact.

Continued progress has been made during the year in connection with the revision of the accounting regulations for steam railways and sleeping-car companies. The revision of the accounting regulations for express companies has been completed and issued. A tentative draft of a system of accounts for carriers by water has been distributed among members of the Association of Water Line Accounting Officers for constructive suggestions and conferences have been held with the United States Maritime Commission for the purpose of reaching a final conclusion which will satisfactorily meet the requirements of the Merchant Marine Act of 1936 as well as the Interstate Commerce Act.

In compliance with the requirements of section 20 we have issued during the year 80 orders prescribing depreciation rates applicable to the equipment of that number of steam railroad companies. Of these, 65 represent modifications of previous orders as a result of the continuing supervision of the depreciation rates for that class of companies. For pipe-line and express companies, 20 orders were issued prescribing depreciation rates applicable to all classes of depreciable property, 4 of which were modifications of previous orders. The prescribing of depreciation rates applicable to carriers by water has been held in abeyance pending the outcome of the negotiations with the United States Maritime Commission relating to the adoption of a uniform accounting procedure. It is expected that rates for this class of carrier will be prescribed during the coming year.

BUREAU OF AIR MAIL

In the section on Transfer of Jurisdiction over Air Mail reference is made to the Civil Aeronautics Act of 1938, approved June 23, 1938, which repealed all of the regulatory provisions of the Air Mail Act of 1934, as amended, and provided for the transfer by Executive order of our Bureau of Air Mail to the Civil Aeronautics Authority created by the new act.

From the end of the period covered by our last report to August 22, 1938, when most of the provisions of the Civil Aeronautics Act became effective, we decided five cases involving complaints of air carriers that their rates of compensation for carrying air mail were unjust and unreasonable, and five cases involving rate reviews and audits of the accounts of air carriers to determine whether unreason-

able profits were being derived or accrued from air-mail rates. In addition, the following cases involving other matters were decided by us.

In *Pennsylvania-Central Airlines Corp. Air Mail Bid*, 227 I. C. C. 529, we were called upon to advise the Postmaster General concerning a single bid for an air-mail contract covering a proposed new route between Detroit and Sault Sainte Marie, Mich. We found no objection to acceptance of the bid.

In *American Airlines, Inc., Detroit-Cincinnati Operation*, 225 I. C. C. 333, the carrier, holding a number of air-mail contracts, sought permission to institute and maintain off-line passenger and express services between Detroit, Mich., and Cincinnati, Ohio, and between Detroit and Indianapolis, Ind. We found that the proposed services would compete with passenger and express service available upon other air-mail routes and, under the specific prohibitions of the Air Mail Act, denied the application.

In *Postal Revenue Limitation on Air Mail Rates*, 227 I. C. C. 498, we found—

> that for the fiscal year beginning July 1, 1938, it appears that the anticipated postal revenue from air mail so ascertained will be in excess of the aggregate cost of transportation of air mail by airplane and the services performed by the carriers in connection therewith which may be anticipated by projecting at the same rate of progression the cost of transportation, for preceding years.

The provisions of the Air Mail Act of 1934, as amended, with which we were dealing in that case, were among those repealed by the Civil Aeronautics Act.

In *Braniff Airways, Inc.*, v. *Transcontinental & Western Air, Inc.*, a complaint was filed alleging several violations of section 15 of the Air Mail Act of 1934, as amended. At request of complainant, this case was dismissed by us.

Section 1108 (b) of the Civil Aeronautics Act provides as follows:

> The provisions of this Act shall not affect any proceedings pending before the Secretary of Commerce or the Postmaster General, or proceedings pending before the Interstate Commerce Commission for the determination of rates for the transportation of air mail by aircraft, on the date of the enactment of this Act; but any such proceedings shall be continued, orders therein issued, appeals therefrom taken, and payments made by the Postmaster General pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by the Authority or by operation of law: *Provided*, That the rates determined by the Interstate Commerce Commission shall be determined without regard to that portion of section 6 (c) of the Air Mail Act approved June 12, 1934, which provides as follows: "which, in connection with the rates fixed by it for all other routes, shall be designed to keep the aggregate cost of the transportation of air mail on and after July 1, 1938, within the limits of the anticipated postal revenue therefrom."

Pursuant to this requirement, all proceedings pending before us on June 23, 1938, for the determination of rates for the transportation of air mail by airplane, have been continued and acted upon as if the Civil Aeronautics Act had not been enacted, but without reference to the limitation of section 6 (e) of the Air Mail Act of 1934, as amended, referred to in the proviso of section 1108 (b) of the Civil Aeronautics Act, above set forth. On June 23, 1938, eight such cases remained to be decided. Three of these, *Boston-Maine Airways, Inc., Base Rate Mileage*, 229 I. C. C. 343, *Air Mail Rates for Route No. 6*, 229 I. C. C. 357, and *Air Mail Rates for Route No. 26*, 229 I. C. C. 373, have already been decided. One of the pending cases is submitted; in two cases reports of the examiners have been served; and in the remaining two cases briefs are not yet due. The cases which have not yet been disposed of involve petitions of *Transcontinental & Western Air, Inc.; Continental Air Lines, Inc.; Western Air Express Corporation;* and *Wyoming Air Service* (name changed to *Inland Air Lines, Inc.*) alleging that their existing rates for the transportation of air mail are unfair and unreasonable, and another case involves the reasonableness of the rule relating to the maximum compensation under our general rate scale. Carriers complained that the rule was applied retroactively by the Postmaster General, and that our order establishing the rule was made without proper notice and hearing.

All other proceedings pending under the Air Mail Act of 1934, as amended, were by appropriate orders dismissed by us.

We take this occasion to call attention to the fact that during the period of our administration of the limited regulation provided by the Air Mail Act of 1934, as amended, the air transport industry of the United States, as represented by its domestic air-mail carriers, has enjoyed a remarkable growth and development. Comparisons of the results of operations for the fiscal years ended June 30 in the years 1935 and 1938 disclose the following percentages of increases in the principal items of the financial and operating phases of the business:

	Percent		*Percent*
Mail revenues	70	Mail pound-miles	107
Passenger revenues	85	Pounds of express carried	169
Express and freight revenues	137	Revenue passengers carried	119
Total transportation revenues	80	Revenue passenger miles	101
Revenue miles flown	48	Seat miles operated	103
Pounds of mail carried	103		

As shown in our previous reports to the Congress, notable progress has been made in improving the airplanes used in domestic air-transport service. In our first proceeding under the Air Mail Act, the record showed that there were something like 40 different types of airplanes in service by the domestic air-mail carriers. During

the period of a little more than 4 years this miscellany of flying equipment has been largely retired and replaced by three or four standard types of all-metal airplanes of larger capacities and with improved instruments and accessories which increase the safety factor in operation. At the same time, new routes have been established and in other respects the air transport service available to the public has been greatly improved.

TRANSFER OF JURISDICTION OVER AIR MAIL

In our last annual report and in our report for the preceding year we pointed out defects in the Air Mail Act of 1934, as amended, and concluded that, as an alternative to further amendment of those acts, the enactment of an entirely new law for comprehensive regulation of interstate air transportation similar in scope to parts I and II of the Interstate Commerce Act governing the regulation of railway and highway carriers was preferable, and recommended that type of legislation. Bills providing such regulation had been pending before the Congress for several years, and our views seemed generally to coincide with those expressed in such proposed legislation. Early in the third session of the Seventy-fifth Congress, however, other bills were introduced which had for their objective comprehensive regulation of all phases of civil aeronautics, including both scheduled and nonscheduled air transport in the fields of interstate, overseas and foreign air commerce. The regulation thus proposed was very much broader in scope than, although it included, that which we had recommended, and embraced control of the technical phases of civil aeronautics and private flying which theretofore had been regulated by the Department of Commerce.

Finally, on June 13, 1938, the Congress adopted the report of the conferees on the Civil Aeronautics Act of 1938, and the President approved the legislation on June 23, 1938. That act repealed all of the regulatory provisions of the Air Mail Act; established the Civil Aeronautics Authority to administer the new law with the assistance of an Administrator and Air Safety Board created within the Authority; and provided for the transfer by Executive order to the Authority of all of the officers and employees and the property, records, and unencumbered balances of appropriations of our Bureau of Air Mail, created to administer certain provisions of the Air Mail Act, and of the Bureau of Air Commerce of the Department of Commerce, which had administered the Air Commerce Act of 1926 to encourage and regulate the use of aircraft in commerce, and for other purposes. These transfers were effectuated August 22, 1938, the date

when the provisions of the Civil Aeronautics Act generally became effective.

There thus passed from our jurisdiction the limited regulation of air transport in the United States provided by the Air Mail Act of 1934.

BUREAU OF FINANCE

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

The following is a summary of applications filed during the year for certificates of public convenience and necessity under section 1 (18) to (22) of the act, and of the disposition made of applications. In a few cases single applications filed and certificates issued were for more than one purpose. That is, they related to abandonment, as well as to construction or acquisition or operation. To that extent there are duplications in the totals shown, as indicated in footnotes 1 and 2.

Item	Number	Mileage
Applications filed:		
For authority to construct new lines or extend existing lines	5	237.229
For permission to abandon	127	2,470.615
For authority to acquire or to acquire and operate	26	317.647
Total	[1] 158	3,025.491
Certificates issued:		
Authorizing new construction	11	36.659
Permitting abandonment	123	2,014.055
Authorizing operation or acquisition	22	239.433
Total	[2] 156	2,290.147
Applications denied:		
For authority for new construction	1	210.00
For permission to abandon	6	63.03
For authority to acquire	1	1.75
Total	[3] 8	274.78
Applications dismissed:		
For authority for new construction	5	105.73
For permission to abandon	9	470.57
For authority to acquire or to acquire and operate	2	4.46
Total	[4] 16	580.76

[1] Includes 12 duplications.
[2] Includes 17 duplications.
[3] Includes 3 applications denied in part.
[4] Includes 4 applications dismissed in part.

Among the applications disposed of during the year were several pending on October 31, 1937. A list of certificates issued appears in appendix F.

We have continued the practice of enlisting the cooperation of the State commissions in these cases. In the majority of cases in which decisions have been reached their recommendations and our conclusions have coincided. During the year covered by this report, one such case has been heard for us by a State commission.

Since the effective date of the Transportation Act, 1920, we have authorized the construction of approximately 10,031 miles of new railroad, and have issued certificates permitting the abandonment of railway mileage or the operation thereof of 20,845 miles. Based on reports by carriers and on other available information, it appears that, of the construction authorized, approximately 7,125 miles of road have been completed, and that projects aggregating about 2,295 miles have been abandoned or deferred. The remainder, about 611 miles, represents cases in which the specified completion periods have not expired.

ACQUISITION OF CONTROL OF ONE CARRIER BY ANOTHER

Under the provisions of section 5 (4) of the act, as amended, it is lawful, with our approval and authorization, for two or more carriers to consolidate or merge their properties, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another; or for any carrier or two or more carriers jointly, to acquire control of another through purchase of its stock; or for a corporation which is not a carrier to acquire control of two or more carriers through ownership of their stock; or for a corporation which is not a carrier and which has control of one or more carriers to acquire control of anther carrier through ownership of its stock. Under this paragraph 19 applications have been filed, 21 have been granted, 1 denied, and 1 dismissed. A few applications were pending on October 31, 1937. Two applications were filed jointly with convenience and necessity applications under section 1 (18) of the act. A list of authorizations issued appears in appendix F.

ISSUANCE OF SECURITIES AND ASSUMPTION OF OBLIGATIONS

We have received 109 applications and supplements thereto under section 20a of the act, have entered 105 orders authorizing the issue of securities and the assumption of obligations and liabilities in respect of the securities of others in the aggregate amounts and for the purposes shown in appendix F, and 3 applications were dismissed.

Under section 20a (9) certificates of notification of the issue of notes maturing within 2 years in the aggregate sum of $102,772,006.52 were filed.

The tabulation in appendix F includes all securities authorized, whether for nominal, conditional, or actual issue.[1] It does not include notes and other obligations given the Reconstruction Finance

[1] These terms are defined at p. 7 in annual report for 1931.

Corporation by carriers to evidence or secure loans by that corporation to them, as neither our authorization of such issues nor the reporting thereof under the provisions of section 20a of the act is required.

The following tabulation shows by classes the respective amounts of securities authorized:

Class of security	Nominal issue	Conditional issue	Actual issue
Common stock			[1] $13,901,531.22
Preferred stock			154,000.00
Mortgage bonds	$19,627,000	$143,098,850	113,853,777.85
Collateral-trust bonds			1,027,000.00
Secured notes			21,395,880.68
Unsecured notes		1,000,000	18,195,845.53
Equipment-trust obligations			34,056,500.00
Receivers' certificates			614,350.00
Trustees' certificates			17,430,000.00
Trustees' notes			53,387.51
Total	19,627,000	144,098,850	220,682,272.79

[1] Also 1,300,752 shares without par value.

The amounts shown as authorized for actual issue do not include securities delivered by a subsidiary to a controlling company subject to our jurisdiction, unless the controlling company has been authorized to dispose of the securities. Such securities are included under either "nominal issue" or "conditional issue," as may be appropriate.

Of the securities for nominal issue $6,634,000 of mortgage bonds were authorized to be issued in exchange for, in lieu of, or to pay, extend or refund other securities nominally, conditionally or actually outstanding. Of the securities for conditional issue, $15,303,750 of mortgage bonds were authorized to be issued in exchange for or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding, and $127,795,100 of mortgage bonds had been previously authorized for nominal or conditional issue.

Of the securities for actual issue, 1,298,200 shares without par value and $12,849,600 of common stock, $99,468,777.85 of mortgage bonds, $16,286,064.53 of secured notes, $16,205,025 of unsecured notes, $604,350 of receivers' certificates, $10,030,000 of trustees' certificates, and $43-387.51 of trustees' notes were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities; $400,000 of equipment-trust obligations had previously been authorized for nominal or conditional issue. From the foregoing it appears that additional capitalization to result from the various authorizations is as follows: Nominal issue, $12,993,000; conditional issue, $1,000,000; and actual issue, $64,795,067.90; and 2,552 shares of common stock without par value.

During the period covered by this report the amount of temporary financing is more than three and one-half times greater than in the previous period and as indicated below, about 49 percent thereof was for the purpose of renewing or refunding existing obligations. The amount of short-term notes issued without our authorization is shown above. Of this amount, $50,241,083.74 was for renewal of notes previously issued, and the remainder was to obtain additional funds for current corporate requirements. In addition, there are included in the foregoing tabulation secured and unsecured notes of a maturity of not more than 3 years and aggregating $23,800,911.68 authorized by us for actual issue. Of the short-term notes so authorized. $16,656,000 was to pay, renew, extend, or refund outstanding securities; and $7,144,911.68 was for other corporate purposes.

Upon petition of certain carriers we have entered supplemental orders reducing the amount of securities originally authorized. These orders effect reductions of $500 in mortgage bonds and $255,800 in receivers' certificates.

As indicated above, the additional capitalization resulting from the various authorizations amounts to $78,788,067.90 and 2,552 shares of common stock without par value, of which $34,056,500 represents equipment-trust certificates issued to obtain new money for the purchase of equipment.

While the new financing is represented principally by the issue of equipment-trust obligations the amount thereof is considerably less than in each of the two immediately preceding periods and the interest rates and average cost are somewhat higher. The nominal rates borne by these obligations have ranged from 2¼ to 4 percent, the average being 3⅓ percent, and the prices at which they have been sold resulted in an average annual cost to the carriers of 3.42 percent.

SIX MONTHS' GUARANTY AFTER TERMINATION OF FEDERAL CONTROL

In our last annual report, page 43, we referred to the case in the Court of Claims, arising under section 209 of the Transportation Act, 1920, brought by the Northern Pacific Railway Co. for recovery of approximately $1,500,000 which it repaid following our final decision of its guaranty claim, 111 I. C. C. 340. On March 1, 1937, the Court of Claims held that the carrier had the right to recover this sum of money (18 F. Supp. 543) upon the authority of the decision of the Supreme Court in *United States* v. *Great Northern Ry. Co.*, 287 U. S. 144.

Upon our recommendation the Attorney General, on October 6, 1937, filed petition for writ of certiorari in the Supreme Court to review this decision of the Court of Claims. On November 22, 1937, the Supreme Court denied the petition. (See *United States* v. *Northern Pacific Ry. Co.*, 302 U. S. 750.)

INTERLOCKING DIRECTORATES

Under the provisions of section 20a (12) of the act, it is unlawful for any person to hold the positions of officer or director of more than one carrier unless such holding shall have been authorized by our order. During the period covered by this report we received 205 applications from individuals and 1 from a carrier. Disposition was made of 201 applications, of which 191 were granted and 10 were withdrawn.

LOANS TO CARRIERS AFTER FEDERAL CONTROL

Our duties during the year in connection with the revolving fund created by section 210 of the Transportation Act, 1920, have been only such as are usually incidental to supervision by the Secretary of the Treasury of loans outstanding under this section.

During the year nothing was repaid on the principal of such loans outstanding.

Since the effective date of the act we have certified loans to carriers aggregating $350,600,667, of which $325,377,434.45 has been repaid, leaving an unpaid balance of $25,223,232.55, of which all except $750,000 has matured. Interest paid on loans amounts to $90,822,479.92. Interest in default to October 1, 1938, amounts to $11,736,870.27.

Lists of outstanding unmatured loans and of principal and interest due and in default appear in appendix F.

RECONSTRUCTION FINANCE CORPORATION ACT

Since our last report, we have approved loans under the Reconstruction Finance Corporation Act aggregating $46,103,500 upon applications filed by 12 carriers. Of these loans, eight representing a total of $31,692,500, were such as to require, under the terms of the act, our certification that on the basis of present and prospective earnings the applicant might reasonably be expected to meet its fixed charges without reduction thereof through judicial reorganization. The remaining four amounting to $14,411,000 were for maintenance or for the purchase of equipment, and the act requires no such certification in those cases. Upon application of another carrier we have modified our approval in a prior year, of a loan to that carrier by reducing by $20,805.51 the amount of the loan approved. Under the provisions of this act we have approved, upon application of two of these carriers and one other carrier, the purchase of $28,696,500 of their securities, and upon application of another carrier, the guaranty of $5,000,000 of its securities, by the Reconstruction Finance Corporation. A detailed statement will be found in appendix F.

The principal purposes for which the loans have been approved, and the total for each purpose are approximately as follows:

Retirement of funded debt (bonds, $13,056,000; long-term notes, $1,411,000)	$14,467,000
Purchase of property of a predecessor carrier	400,000
Retirement of guaranteed bonds of an affiliated carrier	525,000
Equipment-trust maturities	4,425,500
Equipment-trust interest	587,930
Interest on bonds	9,864,300
Interest on long-term notes	280,700
Repairs, renewals, additions, and betterments	15,411,000
Miscellaneous	142,070

The aggregate amount of loans, purchases of securities, and the guaranty approved by us under this act is $782,963,622.34.

Since work under this act was initiated in February 1932, applications for financial aid have been filed by 176 carriers or their receivers or trustees. Loans or other financial aid to 74 of these applicants were approved, some of the carriers receiving approval of more than 1 application. The applications of 22 others were approved but later revoked. For various reasons we were unable to approve the applications of 44 carriers, and in the case of 28 others the applications were dismissed, usually with the consent of the applicants. The applications of eight others are under investigation.

We have approved the extension of the time of payment of 77 loans aggregating $337,147,165.10 upon applications filed by 36 carriers. Some of the carriers have applied for extensions on more than one loan and have had more than one extension of the same loan. Of these extensions, 74 were approved subsequent to June 19, 1934, the effective date of the amendment of section 5 of the act requiring as a condition precedent to such approval our certification that the carrier was not in need of reorganization in the public interest.

By act approved January 26, 1937, the period during which the Reconstruction Finance Corporation is authorized to continue to perform all of its functions was extended from February 1, 1937, until the close of business on June 30, 1939, subject to the power of prior suspension of any of such functions by authority of the President.

PROGRESS IN REORGANIZATIONS

Since our last report, five additional proceedings, involving seven railroad companies for reorganization under Section 77 of the Bankruptcy Act, as amended, have been instituted in the district courts of the United States. These proceedings involved the Oregon Pacific & Eastern Ry. Co.; the Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.; the Erie R. R. Co., and its subsidiaries—Nypano R. R. Co. and New Jersey & New York R. R. Co.; the Fort Smith, Subiaco & Rock Island R. R. Co.; and the Boston & Providence R. R. Corporation.

All of these proceedings were instituted on petitions of the carriers. In addition to the new proceedings petitions were filed in the *Missouri Pacific case* by 15 subsidiaries of the Missouri Pacific R. R. Co.

The petition filed by the Middleburgh & Schoharie Railroad has been dismissed by the court.

In the *Copper Range Railroad case* the plan of reorganization has been confirmed by the court, the property transferred by the trustee to the reorganized company, the trustee discharged and proceedings terminated.

In the *Chicago, South Shore & South Bend Railroad* and *Reader Railroad cases* plans of reorganization have been confirmed by the courts, property turned over to the reorganized companies and the issue of securities provided for in the plans have been approved by us. A list of all railroad proceedings before us, of which there are now 33, is shown in appendix G. Sixteen plans of reorganization have been filed since our last report of which 2 were filed by debtor carriers, 1 by a protective committee and 1 by secured creditors in proceedings where no plan had previously been filed; 2 by protective committees and 3 by secured creditors in proceedings where debtor carriers had previously filed plans; and 7 modified plans of which 2 were filed by debtor carriers which had previously filed plans; 3 by secondary debtors in which the principal debtor had previously filed a plan; 1 by a protective committee and 1 by secured creditors where the debtors had previously filed plans. Hearings have been held on plans of reorganization in proceedings, viz, *Chicago & North Western Railway*, *Chicago, Indianapolis & Louisville Railway*, *Chicago, Milwaukee, St. Paul & Pacific Railroad*, *Chicago, Rock Island & Pacific Railway System*, *Oregon Pacific & Eastern Railroad*, *New York, New Haven & Hartford Railroad system*, and its secondary debtors—*Hartford & Connecticut Western Railway* and *Providence Warren & Bristol Railroad*—and have been concluded.

Proposed reports on plans of reorganization were issued during the year in *Chicago Great Western Railroad*, *Chicago, Indianapolis & Louisville Railway*, *Chicago & Eastern Illinois Railway*, *Denver & Rio Grande Western Railroad*, *Missouri Pacific Railroad System*, the *St. Louis Southwestern Railway*, and in the *New York, New Haven & Hartford Railroad System cases.* In the latter case our proposed report refused the approval, at this time, of a plan of reorganization. Final reports on plans of reorganization were issued during the year in the *Akron, Canton & Youngstown Railroad System*, *Chicago Great Western Railroad*, *Spokane International Railway System*, *Western Pacific Railroad*, and *Savannah & Atlanta Railway cases.* These reports were served on the parties and certified to the courts of jurisdiction and in the last-named case our final report has been approved by the court. A final report was

issued in the case of the Arkansas Valley Interurban Railway refusing approval of any plan of reorganization without prejudice of continuation of the proceedings. An interim report was issued in case of the Chicago & North Western Ry. Co., and final reports in formulae for segregation of earnings by mortgage districts in case of the Chicago, Indianapolis & Louisville Railway, and New York, New Haven & Hartford Railroad system. The final report on a plan of reorganization of the Louisiana & North West Railroad certified to the court has been returned by the court requesting modification. Upon further consideration we issued report and order modifying the plan.

Appointment of trustees of the estates of the debtor carriers have been ratified by us during the year in nine proceedings, in three of which we have held public hearings. The appointments of the same trustees for different debtors in the same proceedings were ratified by us in the *Erie Railroad* and *Missouri Pacific Railroad cases.* On petition for reconsideration in the *New York, Ontario & Western Railway case* we affirmed our prior decision denying ratification of a cotrustee.

Maximum limits of compensation of trustees of the debtors, their counsel, special counsel, and of reimbursement for expenses of parties involved in reorganization proceedings have been approved by us in 19 proceedings during the year and hearings held in 9 of these proceedings as required by the section. One petition for approval of maximum compensation was withdrawn and 18 petitions are pending, action on 6 of which has been deferred, with the consent of the petitioners. In one proceeding we entered a separate order increasing the compensation of the trustee of the debtor and in another proceeding approved an increased compensation of counsel for the trustees. In certain instances the maximum fixed by us was for interim allowance for compensation and expenses for counsel for trustees or for the debtors. Maximum limits of final allowances for services rendered and for reimbursement of expenses incurred in reorganization were approved by us in four proceedings in which the plans of reorganization approved by us have been approved by the courts.

Applications have been filed by 15 protective committees for subsection (p) authorization. Hearings have been held in 9 proceedings and authorizations granted in 12 instances and 2 applications are pending before us. One application was withdrawn before any hearing was held.

The two statistical compilations printed immediately below show changes in capitalization and debt under plans of reorganization approved by us, or proposed by examiners in pending railroad reorganization proceedings.

Change in capitalization under plans of reorganization approved by the Commission or proposed by examiners for railroads in reorganization proceedings before the Commission

	Capitalization before reorganization			Capitalization approved or recommended			Changes in capitalization	
	Long-term debt [1]	Stock	Total	Long-term debt	Stock	Total	Long-term debt	Stock
	Thous.	*Thous.*	*Thous.*	*Thous.*	*Thous.*	*Thous.*	*Thous.*	*Thous.*
Chicago S. S. & S. B	$5,369	$9,110	$14,479	$1,554	$6,255 [2] 122,000	$7,808 [2] 122,000	−$3,815	−$2,856 [2]+122,000
Reader	(3)	160	160	38	160	198	+38	
Copper Range	2,280	2,000	4,280		3,280	3,280	−2,280	+1,280
Kansas City, K. V. & W	665	1,021	1,685	25	300 [2] 500	325 [2] 500	−640	−721 [2]+500
Chicago Great Western	42,669	92,283	134,952	26,390	35,902	62,292	−16,279	−56,381
Spokane Int	[4] 6,781	[4] 4,744	[4] 11,525	2,846	[2] 28,464	2,846 [2] 28,464	−3,935	−4,744 [2]+28,464
Akron, C. & Y	[5] 11,373	[5] 5,730	[5] 17,103	3,998	4,503	8,500	−7,376	−1,228
Western Pacific	68,926	75,800	144,726	32,782	29,574 [2] 313,703	62,356 [2] 313,703	−36,144	−46,226 [2]+313,703
Louisiana & N. W	2,169	2,300	4,469	969	[2] 132,723	969 [2] 132,723	−1,200	−2,300 [2]+132,723
Savannah & Atl	5,020	2,250	7,270	1,700	1,259 [2] 10,000	2,959 [2] 10,000	−3,320	−991 [2]+10,000
Chicago & E. I	42,680	45,891	88,572	28,072	15,355 [2] 343,297	43,426 [2] 343,297	−14,609	−30,537 [2]+343,297
Alabama, T. & N. [6]	4,134	3,917	8,051	1,263	1,667 [2] 20,907	2,930 [2] 20,907	−2,871	−2,249 [2]+20,907
St. Louis Southwestern [6]	70,045	37,080	107,125	37,473	37,547	75,020	−32,572	+467
Chicago, I. & L. [6]	30,012	15,488	45,500	17,422	7,800 [2] 354,593	25,221 [2] 354,593	−12,590	−7,689 [2]+354,593
Missouri Pacific [6]	518,841	152,364	671,206	288,633	108,978 [2] 1,562,870	397,611 [2] 1,562,870	−230,208	−43,386 [2]+1,562,870
Total	810,965	450,138	1,261,103	443,164	252,577 [2] 2,889,057	695,742 [2] 2,889,057	−367,800	−197,561 [2]+2,889,057

[1] Includes the principal amounts of certain notes and bonds, which before reorganization were classified in the balance sheet as current liabilities but which are to be funded in the plan approved. Does not include unpaid interest.
[2] Common no-par stock in shares.
[3] In this case judgment for damages, $37,673.84 plus interest, which caused the reorganization, settled for $5,000 in cash and $38,400 in notes.
[4] Includes $544,000 bonds and $544,000 stock of Coeur d'Alene & Pend d'Oreille in appropriate columns.
[5] Includes $2,500,000 bonds and $4,230,000 stock of Northern Ohio in appropriate columns.
[6] Bureau of Finance proposals not as yet approved by the Commission.

Change in debt under plans of reorganization approved by the Commission or proposed by examiners for railroads in reorganization proceedings before the Commission

	Debts [1]		Debt reduction
	Before reorganization [2]	After reorganization	
Chicago S. S. & S. B	$5,604,447	$1,553,800	$4,050,647
Reader	[3] 43,400	38,400	5,000
Copper Range	2,280,000		2,280,000
Kansas C., K. V. & W	716,882	25,000	691,882
Chicago G. W	48,050,452	26,390,268	21,660,184
Spokane Int	7,996,994	2,846,400	5,150,594
Akron, C. & Y	13,312,581	3,997,500	9,315,081
Western Pac	93,158,367	32,782,157	60,376,210
Louisiana & N. W	2,319,394	968,980	1,350,414
Savannah & Atl	8,106,805	1,700,000	6,406,805
Chicago & E. I	67,020,834	28,071,500	38,949,334
Alabama, T. & N. [4]	5,634,270	1,262,870	4,371,400
St. Louis S. W. [4]	76,820,978	37,473,100	39,347,878
Chicago, I. & L. [4]	37,923,234	17,421,500	20,501,734
Missouri Pac. [4]	624,468,617	288,633,000	335,835,617
Total	993,457,255	443,164,475	550,292,780

[1] Does not reflect current operating obligations to be assumed by the reorganized company.
[2] Includes unpaid interest, dividends, etc.
[3] In this case judgment for damages $37,673.84 plus interest which caused the reorganization settled for $5,000 in cash and $38,400 in notes.
[4] Bureau of Finance proposals not as yet approved by the Commission.

BUREAU OF FORMAL CASES

The formal complaints filed numbered 291 of which 255 were original complaints and 36 subnumbers, a decrease of 69 as compared with the previous period. We decided 348 cases and 126 have been dismissed by stipulation or on complainants' request, making a total of 474 cases disposed of, as compared with 666 during the previous period.

Approximately 32 formal and investigation and suspension cases have been reopened for further hearing and reconsideration.

We conducted 590 hearings and took approximately 129,359 pages of testimony, as compared with 679 hearings and 110,503 pages of testimony during the preceding period.

The following statement shows certain facts with respect to the condition of this docket as of October 31 of the years indicated:

	1935	1936	1937	1938
Formal complaints filed	469	373	306	255
Subnumbers	34	84	54	36
Investigation and suspension cases instituted	103	118	152	124
Cases under submission at end of period:				
Regular docket	159	174	74	95
Shortened procedure	33	28	14	26
Cases disposed of including subnumbers and reopened cases	1,195	903	783	526
Number of pending cases	849	713	580	554

SHORTENED PROCEDURE

Approximately 30 percent of the total number of formal complaints are now handled by the shortened procedure method as compared with 36, 30, and 32 percent during the 3 preceding years. In cases so handled and decided during this year the average elapsed time to reach a decision was 332 days from the receipt of complaint and 194 days from receipt of the final memorandum. The corresponding periods during the 3 preceding years were 337 and 202, and 310 and 179 days, and 307 and 156 days, respectively. The following statement gives details concerning the docket as of October 31 of the years indicated:

Explanation	1935	1936	1937	1938
Suggested for handling under the shortened procedure, either by us or by the parties	270	211	141	149
In which method not accepted by one or more of the parties	107	114	61	40
In which agreement was subsequently reached by the parties, making further formal proceedings unnecessary:				
Before service of complainant's memorandum	2	5	7	9
After service of complainant's memorandum	2	4	6	4
In which complaints withdrawn	10	12	8	6
Dismissed for want of prosecution	1	0	1	0
Decided	156	111	106	67
Pending in various stages short of submission	119	83	49	60
Pending under submission at end of period	33	28	14	26
Total pending cases	152	111	63	86

BUREAU OF INFORMAL CASES

The number of informal complaints received was 635, a decrease of 311. The carriers filed 2,561 special docket applications for authority to refund amounts collected under the published tariffs and admitted by them to have been unreasonable, a decrease of 550. Orders authorizing refunds were entered in 1,951 cases, a decrease of 634, and reparation thereunder was awarded in the sum of $345,549.79. In addition, 444 cases were dismissed or disposed of without orders. The Bureau also handled approximately 6,900 letters, many of which have the characteristics of informal complaints although not classified as such. Others sought general information and informal rulings upon the rights and obligations of the public and common carriers under existing statutes.

BUREAU OF INQUIRY

Our staff of attorneys and special agents directed and conducted during the year more than 200 investigations of alleged violations of the criminal and penal provisions of the Interstate Commerce Act and related statutes.

Certain of these investigations disclosed that carriers are failing strictly to observe their so-called pick-up and delivery tariffs which provide either for transportation by truck of less-carload freight between shippers' premises and the carriers' freight stations at no extra charge or for the payment of published allowances to shippers when the latter perform the trucking service. In certain instances it was discovered that allowances were paid where no service had been performed by the shippers. In one case a railroad company was prosecuted for granting concessions by payment of allowances to a shipper whose inbound freight was delivered to the shipper's private siding by the carrier's switch engines instead of being trucked from the carrier's station by the shipper.

It also appears from our investigations that there is a growing tendency on the part of carriers and shippers to manipulate the provisions of rule 34 of the Consolidated Freight Classification in such manner as to avoid charges lawfully applicable on traffic which is subject to that rule. The rule provides that freight charges should be computed upon the minimum carload weights published for cars of the lengths ordered by shippers, and not upon the higher minima published for cars of greater lengths which actually are used by shippers, provided the longer cars are furnished by carriers for their own convenience. Instances have come to light where shippers, by resorting to the subterfuge of ordering shorter cars than those which they really desire or can use, have been furnished longer cars by carriers under the pretense of carrier's convenience at charges based

on the minimum weights for the shorter cars, notwithstanding the fact that the carriers knew, or should have known, that the shorter cars were not actually ordered in good faith and could not have been used by the shippers.

Abuses, by shippers, of tariff provisions under which shipments moving on through rates may be stopped enroute to complete loading or partially to unload, have been brought to light in several instances, in one of which prosecution of a shipper was instituted. The indictment charged the solicitation of concessions and rebates in respect to shipments of scrap iron which were billed for stop-off at an intermediate point to complete loading. The shipper, instead of merely adding freight to the cars at the stop-off point, removed portions of the original contents. Under the tariff through rates from point of origin to final destination are not applicable where shipments billed for stop-off for completion of loading are wholly or partially unloaded at the intermediate point. In such instances the local rates to and from that point are applicable. The carrier, because of defendant's conduct of partially unloading the contents of the cars at the stop-off point, imposed the combination of the local rates; and defendant, by means of claims for alleged overcharges based on the difference between the through rate and the combination of locals, solicited the concessions and rebates alleged in the indictment.

Another method of defeating the carriers' published rates, which appears from our investigations to be quite prevalent among shippers, is the furnishing to carriers of false reports of weights. Several prosecutions based on this offense were instituted during the year, and pleas of guilty have been entered by two of the defendants.

Our investigations disclose that the practice of shippers of filing false loss and damage claims against carriers still persists. Several court cases founded on this practice were disposed of during the year. In one instance a jail sentence of 4 months was imposed upon a verdict of guilty. In another prosecution, where pleas of guilty were entered by several receivers of grapes at Boston, Mass., upon indictment charging them with filing false claims and with conspiring with a former railroad inspector to commit that offense, suspended sentences of imprisonment were imposed, in addition to fines aggregating $2,500 which were paid. Suspended fines aggregating $48,000 also were imposed against these defendants.

In one case tried during the year the defendant was convicted of failure to make full, true, and correct entries in the records of a railroad company by which he had been employed, and was fined $1,000. One of defendant's duties was to supervise the auditing of waybills and to make proper entries on such documents when overcharges or undercharges were found. Defendant refrained from making such entries in certain instances where overcharges existed. As a result

the carrier did not refund promptly to shippers the full amount of those overcharges as it would have done in the regular course of business if proper entry had been made. Defendant, under the name of a traffic service bureau, wrote to certain of the shippers and solicited them to send to that bureau their paid freight bills in order that the bureau might obtain for them from the carrier, on a commission basis, the overcharges in question.

During the year appeals were taken to the Supreme Court from unreported decisions of two district courts in cases arising under section 1 of the Elkins Act. Argument thereon has not yet been had.

The question raised by one of the appeals is whether the District Court for the Eastern District of Pennsylvania erred in sustaining demurrers to indictments against the Pennsylvania R. R. Co., the Midstate Horticultural Co., and A. Setrakian, which charged them with having granted and received concessions through false claims for damage to shipments of grapes. The demurrers were sustained on one ground, namely, that jurisdiction of the offense did not lie in the eastern district of Pennsylvania because the claims were paid in the southern district of New York. The shipments to which the claims related were transported through the eastern district of Pennsylvania. The Government's position is that the jurisdictional provision of section 1 of the Elkins Act, under which the prosecutions were brought, furnishes sufficient basis for having instituted the prosecutions in that district. That provision of the statute reads as follows:

> Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

The other appeal is from a decision of the District Court for the District of New Jersey upon special pleas in bar filed by the Manhattan Lighterage Corporation, Durkee Famous Foods, Inc., and Colgate-Palmolive-Peet Co. to indictments charging the granting and receiving of concessions on shipments of imported vegetable oils. The indictments, which were returned during the January 1937 term of court, charged the same defendants with the same offenses as prior indictments which had been quashed by the court in a ruling, rendered during the same term, sustaining defendants' motion to quash. The offenses charged were committed in 1932 and 1933, and hence the 3-year limitation for bringing prosecution had expired before the court granted the motion to quash the original indictments. The Government, in bringing the new indictments, relied upon title 18, section

587, of the Criminal Code, which provides in substance that, whenever an indictment is found defective or insufficient for any cause after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned at any time during the next succeeding term of court following such finding. Defendants, by their pleas in bar, set up the statute of limitations, and although the Government urged title 18, section 587, of the Code in justification of the new indictments, the court sustained the pleas in bar. The court's reasoning in arriving at its conclusion was that section 587 being a statute of limitations must be construed strictly insofar as the Government is concerned, and that the provision thereof that a new indictment may be returned at any time during the next succeeding term following the term in which the original indictment is found defective excludes the right of a grand jury sitting at the same term of court to return a valid indictment. It was the Government's contention that the section in question provides merely the outside limit during which a new indictment may be found, and does not provide a period of repose between the term in which an indictment is vitiated and the next succeeding term.

For violations of the act and related acts, 22 indictments were returned and 6 informations were filed. The specific offenses alleged therein were the granting and accepting of concessions and rebates by carriers and shippers, respectively; false description of freight, and furnishing false reports of weights thereof, by shippers; filing of false claims for loss and damage by shippers with carriers; failure of carriers to observe published tariffs; failure of an employee to make full, true, and correct entries in a carrier's records; and unlawful use of interstate passes. Forty-six cases were concluded in the district courts and resulted in several sentences of imprisonment and the imposition of fines aggregating $39,600, which were paid. In addition, fines totaling $52,500 were imposed but payment thereof suspended and the defendants placed on probation.

Prosecutions instituted and concluded were distributed over the following states: California, Florida, Georgia, Illinois, Massachusetts, Michigan, Nebraska, New Jersey, New York, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Wisconsin.

A summary (a) of indictments returned and informations filed in United States district courts, and (b) of cases concluded in those courts, is set forth in appendix A.

BUREAU OF LAW

On October 31, 1937, there were pending in the courts 55 cases involving our orders or requirements. During the year, 14 cases were instituted and 45 concluded, leaving 24 cases now pending. Of these, 7 are in the Supreme Court of the United States and 17 are in the district courts of the United States.

Fifteen cases were submitted and decided in the Supreme Court and 27 were concluded in the district courts. Summaries of all the foregoing cases are shown in appendix B.

The cases decided by the Supreme Court are:

United States v. *Griffin*, 303 U. S. 226.

The question in this case may be stated: Where the Interstate Commerce Commission, upon reexamination, under the Railway Mail Pay Act of July 28, 1916, declines to increase a railroad's rate of pay for carrying the mail, may the carrier sue, under the terms of the Urgent Deficiencies Act, to set aside our order?

In speaking of the extraordinary features of the Urgent Deficiencies Act, the Court said:

> In the opinion of Congress jurisdiction with the extraordinary features of the Urgent Deficiencies Act was justified by the character of the cases to which it applied—cases of public importance because of the widespread effect of the decisions thereof. In such cases Congress sought to guard against ill-considered action by a single judge and to avert the delays ordinarily incident to litigation. In construing the Act, this Court concluded that despite the broad language used in the Commerce Court Act, Congress could not have intended to include in this special jurisdiction suits to set aside every kind of order issued by the Commission. For substantially every decision, and every other kind of action by the Commission is expressed in, or is followed by, an order; and many of the orders are obviously not of such public importance and widespread effect as to justify, in cases affecting them, the extraordinary features of the Urgent Deficiencies Act.
>
> (Id. 232–233).

Other important holdings of the Court were:

> In recent years the field of administrative determination has been widely extended; and the duty of making many of these determinations has been imposed upon the Interstate Commerce Commission. Some of the statutes contain specific provision making applicable jurisdiction under the Urgent Deficiencies Act. (Statutes cited). It is true likewise of several statutes under which the determinations are to be made by other administrative tribunals. (Statutes cited). The orders for which review is provided by each of these statutes are like the orders under the Interstate Commerce Act fixing rates payable by shippers. Improper injunctive relief of such orders or delay in final determination of their validity may seriously affect the public interest by preventing or obstructing action under those statutes.
>
> (Id. 235–237).

> The absence in the Railway Mail Pay Act of a provision for judicial review and the denial of jurisdiction under the Urgent Deficiencies Act do not preclude every character of judicial review. If the Commission makes the appropriate finding of reasonable compensation but fails, because of an alleged error of law, to order payment of the full amount which the railroad believes is payable under the finding, the Court of Claims has jurisdiction of an action for the balance, as the claim asserted is one founded upon a law of Congress. *Missouri Pacific R. Co.* v. *United States*, 271 U. S. 603. Compare *United States* v. *New York Central R. Co.*, 279 U. S. 73 affirming 65 Ct. Cl. 115, 121. And since railway mail service is compulsory, the Court of Claims would, under the

general provisions of the Tucker Act, have jurisdiction also of an action for additional compensation if an order is confiscatory. *United States* v. *Great Falls Mfg. Co.*, 112 U. S. 645; *North American Transportation & Trading Co.* v. *United States*, 253 U. S. 330, 333; *Jacobs* v. *United States*, 290 U. S. 13, 16. Moreover, as district courts have jurisdiction of every suit at law or in equity "arising under the postal laws," 28 U. S. C., § 41 (6), suit would lie under their general jurisdiction if the Commission is alleged to have acted in excess of its authority, or otherwise illegally. Compare *Powell* v. *United States*, 300 U. S. 276, 288, 289. But a suit under the Urgent Deficiencies Act to set aside an order concerning mail pay is not primarily one against the Commission. Primarily, it is a suit against the United States. And the United States can be sued only when authority so to do has been specifically conferred.

The Railway Mail Pay Act does not confer that authority.

(Id. 238–239.)

The decision of the lower court was reversed for lack of jurisdiction.

Escanaba & Lake Superior R. Co. v. *United States*, 303 U. S. 315.

The question presented here is whether the appellant is a "carrier involved" within the meaning of section 5 (1), the "pooling" provision, of the Interstate Commerce Act.

The Chicago and North Western R. R. Co. and the Chicago, Milwaukee, St. Paul, and Pacific R. R. Co. entered into a pooling agreement under which, among other things, the Milwaukee would have discontinued ore haulage operations over the tracks of the Escanaba & Lake Superior R. R. Co. in Michigan. The agreement was submitted to us for approval and the Milwaukee made a conditional application for abandonment of its ore haulage over the Escanaba. The latter intervened and resisted the issue of an order of approval. We made the findings required by sections 1 (18) and 5 (1) of the act and issued orders authorizing the proposed arrangement. The Escanaba contended that the Commission and the lower court erred in holding it was not a "party involved" in the pooling agreement whose assent was necessary to the approval of the Commission.

In its decision affirming the judgment of the lower court which dismissed the bill to set aside our order, the Supreme Court said:

* * * Escanaba had the undoubted right accorded it to appear and to be heard on the question of the public interest and welfare and indeed so had every carrier having connections with Milwaukee and Northwestern. The question involved in the appellant's contention is whether it or any other carrier, not actually a party to the pooling agreement, is a "carrier involved" within the meaning of the Act, so that it may frustrate the agreement by withholding its assent.

(Id. 321)

* * * * * * *

Third. In view of Escanaba's relation to the traffic involved in the proposed pool, the decision that its assent is a prerequisite to the plan's operation would involve the gravest inconvenience and perhaps render the provision of § 5 (1) nugatory. It is difficult to conceive of any pooling arrangement between two

carriers which will not affect, in a greater or less degree, other carriers who interchange traffic with one or the other of the pooling roads, or with their connections. If the private interest of any such outside carrier should move it to refuse its assent to the arrangement it could, in the view urged by the appellant, veto the proposal although, on the whole and in the long view, the consummation of the plan might greatly enhance the economies of operation of large and important carriers and so promote the public interest. We cannot believe that every carrier, in such sense affected by a proposed pool to which it is not a party, was intended to have a status different from, and perhaps at war with, the interest of the general public in the efficient and economical operation of the railroads envisaged by the Transportation Act.

(Id. 322–323).

United States v. *Pan American Petroleum Corp.* (9 cases consolidated), 304 U. S. 156.

In this case the Court sustained nine of our orders relating to terminal allowances, the citations to our reports being in footnote 3 (p. 157) of the decision. The orders were upheld on the authority of a prior decision of the Supreme Court involving the same issues. (*United States* v. *American Tin Plate Co.*, 301 U. S. 402.)

Shannahan v. *United States*, 303 U. S. 596.

At the request of the National Mediation Board, and following full hearings, we determined the status of the Chicago, South Shore & South Bend Railroad under the Railway Labor Act, 214 I. C. C. 167. A suit was brought to set aside this determination under the Urgent Deficiencies Act and in holding that that method of review was improper, the Supreme Court said:

First. The function of the Commission is limited to the determination of a fact. Its decision is not even in form an order. It "had no characteristic of an order, affirmative or negative." *United States* v. *Illinois Cent. R.*, 244 U. S. 82, 89; *United States* v. *Atlanta, B. & C. R.*, 282 U. S. 522, 527–28. Compare *Lehigh Valley R.* v. *United States*, 243 U. S. 412, 414. But even if this difficulty is overlooked, others are insuperable. The decision neither commands nor directs anything to be done. "It was merely preparation for possible action in some proceeding which may be instituted in the future." *United States* v. *Los Angeles & S. L. R.*, 273 U. S. 299, 310. The determination is thus not enforceable by the Commission; the only action which could ever be taken on it would be by some other body. It is as clearly "negative" as orders by which the Commission refuses to take requested action. *United States* v. *Griffin*, *ante*, p. 226. As such, it is not reviewable under the Urgent Deficiencies Act.

(Id. 599)

Second. Moreover, the determination of the Commission is not even a decision which the Mediation Board, by whom it was sought, is empowered to enforce. The Act confers upon the Board no power over any carrier. It merely imposes upon the Board possible duties in respect to interstate carriers by railroad not exempted by the proviso. * * *

(Id. 600)

* * * The determination, whether applied for by the Board, by a carrier, or by employees, is clearly not an order enforceable within the meaning of the cases construing and applying the Urgent Deficiencies Act. It is a decision on a controverted matter, comparable to that considered in *United States* v. *Los*

Angeles & Salt Lake R. Co., 273 U. S. 299, in *Great Northern Ry. Co.* v. *United States*, 277 U. S. 172, in *United States* v. *Atlanta, B. & C. R. Co.*, 282 U. S. 522, and in *United States* v. *Griffin*, *ante*, p. 226, which were held not to be subject to review under the Urgent Deficiencies Act.

(Id. 601)

Baltimore & Ohio R. Co. v. *United States*, 304 U. S. 58.

In this case the Supreme Court sustained our order in what is known as the *Coke case*, 208 I. C. C. 281.

In its opinion the Court said:

Here, counsel specially insist this second order exceeded the jurisdiction of the Commission since it undertook to determine rates concerning which there had been no proper notice or opportunity for hearing. But this contention rests upon an assumed construction of the order not obviously correct. The Commission has not so construed it, nor has that body been asked so to do, or for any further action in respect of it. Another construction brings the order clearly within the jurisdiction assumed by the Commission. In the circumstances appellants cannot prevail on this point.

Appellants further urge that the order is contrary to the weight of the evidence, not supported by substantial evidence, disregards ordinary standards for determining reasonableness of rates, is not supported by necessary findings, and represents a mere attempt to equalize geographical and transportation disadvantages, fortune and opportunities. The findings by the court below we think are adequately supported by the record. They negative these claims and leave no sufficient basis for our interference with the action there taken.

(Id. 60).

Kansas City Southern Ry. Co. v. *Interstate Commerce Commission*, 305 U. S. ——.

In *Kansas City Southern Ry. Co.* v. *Kansas City Terminal Ry. Co.*, 211 I. C. C. 291, we found that we had no jurisdiction to grant the relief sought in a complaint filed by the Kansas City Southern, seeking to be relieved from the burden imposed upon it by an operating agreement, voluntarily entered into, providing for the financing, maintenance, and operation of a union terminal by a number of railroads entering Kansas City. Petitioner sought by writ of mandamus to compel us to take jurisdiction. The District Court of the United States for the District of Columbia sustained our views (18 F. Supp. 94) and this decision was in turn affirmed by the Court of Appeals for the District. (See 98 F. (2d)) 268.) In holding that the Commission's action was correct, the Court of Appeals said:

In our opinion the decision of the lower court upholding the action of the Commission should be affirmed. The duty of the Commission to take jurisdiction was not beyond peradventure clear. * * * Consequently, mandamus is not a proper remedy. This being true it is not necessary for us to determine whether Congress has given to the Commission power to grant the relief prayed for.

(Id. 270–271).

On October 10, 1938, the Supreme Court of the United States denied petition for writ of certiorari to review this decision.

South Carolina State Highway Department v. *Barnwell Bros.*, 303 U. S. 177.

In this case the Supreme Court had before it the question as to the validity of an act of South Carolina, dated April 28, 1933, prohibiting use on the State highways of motortrucks and semitrailer motortrucks, whose width exceeds 90 inches, and whose weight, including load, exceeds 20,000 pounds.

In sustaining the legislation of the State, the Court, among other things, said:

> While the constitutional grant to Congress of power to regulate interstate commerce has been held to operate of its own force to curtail state power in some measure, it did not forestall all state action affecting interstate commerce. Ever since *Willson* v. *Black Bird Creek Marsh Co.*, 2 Pet. 245, and *Cooley* v. *Board of Port Wardens*, 12 How. 299, it has been recognized that there are matters of local concern, the regulation of which unavoidably involves some regulation of interstate commerce but which, because of their local character and their number and diversity, may never be fully dealt with by Congress. Notwithstanding the commerce clause, such regulation in the absence of Congressional action has for the most part been left to the States by the decisions of this Court, subject to the other applicable constitutional restraints.
>
> (Id. 184–195)

After reviewing a number of cases dealing with the authority of a State over its highways, and after holding that in each of these cases regulation involved a burden on interstate commerce, the Court added:

> * * * But so long as the state action does not discriminate, the burden is one which the Constitution permits because it is an inseparable incident of the exercise of a legislative authority, which, under the Constitution, has been left to the States.
>
> Congress, in the exercise of its plenary power to regulate interstate commerce, may determine whether the burdens imposed on it by State regulation, otherwise permissible, are too great, and may, by legislation designed to secure uniformity or in other respects to protect the national interest in the commerce, curtail to some extent the State's regulatory power. But that is a legislative, not a judicial function, to be performed in the light of the Congressional judgment of what is appropriate regulation of interstate commerce, and the extent to which, in that field, State power and local interests should be required to yield to the national authority and interest. In the absence of such legislation the judicial function, under the commerce clause as well as the Fourteenth Amendment, stops with the inquiry whether the State legislature in adopting regulations such as the present has acted within its province, and whether the means of regulation chosen are reasonably adapted to the end sought. *Sproles* v. *Binford, supra; Stephenson* v. *Binford*, 287 U. S. 251, 272.
>
> (Id. 189–190).
>
> * * * When the action of a legislature is within the scope of its power, fairly debatable questions as to its reasonableness, wisdom and propriety are not for the determination of courts, but for the legislative body, on which rests the duty and responsibility of decision. * * *.
>
> (Id. 190–191).

The decision of the lower court holding that the State law as to certain highways of a State imposed a burden on interstate commerce was reversed.

Other decisions of interest to us in connection with our work were:

St. Louis, Brownsville and Mexico Ry. Co. v. *Brownsville Navigation District*, 304 U. S. 295.

In this case the navigation district obtained from the lower court a writ of mandamus commanding the railroad companies to transport certain traffic and to furnish, and continue for all time to furnish, cars for transportation of freight between the Port of Brownsville, Tex., and Matamoros, Mexico. In reversing the decision of the Circuit Court of Appeals for the Fifth Circuit, the Court held that the question presented is one for our preliminary determination.

Thomas Brady v. *Terminal Railroad Association of St. Louis*, 303 U. S. 10.

The decision involved the question as to the liability under the Safety Appliance Act of respondent Terminal Railroad Association of St. Louis for injuries incurred by an employee of the Wabash Railway while inspecting a car which was one of a string of cars brought by the Terminal Railroad to Granite City and placed upon a receiving track of the Wabash pending inspection by the Wabash with a view to purchase, if acceptable. The employee was injured in climbing to the top of the car by use of side ladder and grab iron, the latter becoming loose and causing him to fall because it was attached to a board which was found to have become rotten.

As stated in the decision: "The first question is whether the car can be said to have been in use by the respondent at the time in question" within the meaning of the Safety Appliance Act. Answering this question the decision reads:

> * * * As the Wabash had not accepted the car, the Wabash had not assumed control and petitioner was examining the car in order to determine whether the Wabash should assume control.
>
> As the car had not been withdrawn from use and was still in the possession of the Terminal Association, its statutory obligation continued and the question is whether that duty was owing to petitioner. * * *
>
> (Id. 14.)

The decision holds that the fact that petitioner was not an employee of the Terminal did not absolve the Terminal from its duty to him, and further holds that:

> The fact that petitioner was looking for defects of the sort which caused his injury does not prevent recovery as the statute expressly excludes the defense of assumption of risk.
>
> (Id. 16).

Natural Gas Pipe Line Co. v. *Slattery*, 302 U. S. 300.

The Illinois Commerce Commission issued an order by which appellant was directed to open its records and accounts to inspection by

the commission and to furnish certain statistical data for use in a proceeding pending before it. The proceeding was brought to fix rates charged for gas sold in Illinois by the Chicago District Pipe Line Co., an affiliated corporation.

The facts in the opinion show:

> In November, 1936, the Commission, in the exercise of its authority under the Act, began a proceeding to which the District Company was, and appellant was not, a party, to determine whether the rates charged by the District Company should be reduced. After hearing evidence, the Commission found that appellant was an affiliate of the District Company and that in order to fix reasonable rates for the sale of gas by the latter, inquiry was necessary into its operating charges including the cost of gas purchased from appellant. The Commission accordingly made an order, the validity of which is assailed here, directing that appellant make available for examination by the Commission all of its accounts and records relating to transactions between it and the District Company. It further ordered that appellant file with the Commission a report of the cost of property used in, and a statement of income and expenses in connection with supplying gas to the District Company; or, in the alternative, that it report to the Commission a statement of the cost of all properties used by it in the business of transporting and selling natural gas, together with a statement of the income and expenses of such operations.
> (Id. 304–305).

In its decision affirming a decree of the lower court which denied a preliminary injunction, the Supreme Court said:

> This Court has often recognized that the reasonableness of the price at which a public utility company buys the product which it sells is an appropriate subject of investigation when the resale rates are under consideration, and that any relationship between the buyer and seller which tends to prevent arm's length dealing may have an important bearing on the reasonableness of the selling price. (Cases cited). We have not said, nor do we perceive any ground for saying, that the Constitution requires such an inquiry to be limited to those cases where common control of the two corporations is secured through ownership of a majority of their voting stock. We are not unaware that, as the statute recognizes, there are other methods of control of a corporation than through such ownership. Common management of corporations through officers or directors, or common ownership of a substantial amount, though less than a majority of their stock, gives such indication of unified control as to call for close scrutiny of a contract between them whenever the reasonableness of its terms is the subject of inquiry. In these circumstances appellant can hardly object to the attempted inquiry into the fairness of the price. (Cases cited). The price itself may be found to be so exorbitant as to persuade that the bargaining was not at arm's length. *Corsicana National Bank* v. *Johnson, supra.* We cannot say that the Illinois statute is subject to any constitutional infirmity in so far as it demands access to the books and accounts of appellant or requires production of the information which the order seeks.
> (Id. 307-308)

McCart v. *Indianapolis Water Co.*, 302 U. S. 419.

The rates fixed by the Indiana commission were alleged to be confiscatory, and in passing upon the order of the Circuit Court of Appeals the Supreme Court held that, as a 32-month period had elapsed

between the date of valuation and the date of the decree of the district court, evidence should be introduced to take into account changed conditions in the interval. The Supreme Court after modifying this decision in a minor particular, affirmed the decree of the Circuit Court of Appeals with directions to the district court—

to ascertain what have been the actual results of the Company's business during the intervening years and thus to base its decree upon known conditions as to those years which may show clearly, in the light of the economic changes which have occurred, whether the prescribed rates are or are not of a confiscatory character and whether an injunction restraining the enforcement of the rates should be granted or denied.
(Id. 422–423).

Railroad Commission v. *Pacific Gas Co.*, 302 U. S. 388.

The validity of a rate order made by the California State Commission on November 13, 1933, was involved in this case. The lower court held the order invalid "solely upon the denial of due process of law by the commission in fixing the rates in question." After pointing out that the parties had not brought before the court the evidence that was taken before the commission or in the court below, the Supreme Court held that there was no failure to accord due process of law, saying in this connection:

* * * When the rate-making agency of the State gives a fair hearing, receives and considers the competent evidence that is offered, affords opportunity through evidence and argument to challenge the result, and makes its determination upon evidence and not arbitrarily, the requirements of procedural due process are met, and the question that remains for this Court, or a lower federal court, is not as to the mere correctness of the method and reasoning adopted by the regulating agency but whether the rates it fixes will result in confiscation.
(Id. 393–394.)

The company's principal complaint was that the State commission considered solely historical costs. The Supreme Court held that the "contrary clearly appears," and that the commission received evidence of the cost of reproduction and considered other evidence presented by the company with respect to the value of the property. In its opinion the Supreme Court said:

* * * Respondent was entitled to contest the value thus placed upon its properties, or any part of them, to insist that the value taken as the rate base was too low, and that in consequence the prescribed rates were confiscatory. That was the issue upon which the court below should have passed.
(Id. 400)

The opinion of the lower court was reversed with directions to the district court to pass upon the question of confiscation.

Denver Union Stock Yard Co. v. *United States*, 304 U. S. 470.

This case involved the validity of an order of the Secretary of Agriculture, and the Court's holdings, of interest to us in our valuation work, may be summarized as follows:

An order of the Secretary of Agriculture prescribing maximum rates to be charged by a stockyards company under the Packers and Stock Yards Act is not void on the ground that the prescribed rates are confiscatory and enforcement of the order would deprive the company of its property without due process of law in violation of the Fifth Amendment.

The order is not confiscatory on the theory that the value of property owned by the company and used by a non-profit incorporated association in conducting a livestock show was not included as a part of the rate base. The Secretary properly held that the property was not used and useful for the purpose of rendering the services for which the rates were prescribed.

The exclusion from the rate base of the value of trackage which the company owns but leases to railroads for substantial rentals, and the value of unloading and loading facilities was likewise proper. Stockyards services do not commence until the unloading ends and end when the loading begins.

The Secretary's finding, in fixing the rate base, as to the value of land owned by the company and used by it in rendering its stockyards services is supported by the evidence.

Nor is the rate base objectionable on the theory that the Secretary failed to make proper allowance for going-concern value.

The order is not void in so far as it prescribes "yardage charges to traders" for pens or other facilities, and for food, bedding, etc., although the company has made no charges therefor. The Secretary and the lower court found the company's failure to make charges therefor to be unjustly discriminatory in that it does make charges for similar privileges it furnishes producers and others selling in its market. The statute denounces unjust discrimination and requires the company as a public market to charge, and empowers the Secretary to prescribe, rates that are non-discriminatory.

The Secretary did not err in refusing to allow the company as operating expenses disbursements to local charities, philanthropies, civic organizations, etc.

The order is not confiscatory on the ground that it restricts the company's return to 6½ percent on the value of the property.

United States v. *Illinois Central R. Co.*, 303 U. S. 239.

In this case the Supreme Court held that, by allowing livestock to remain in cars without feed or water for 37 hours, the carrier violated the act of June 29, 1906, 45 U. S. C.§§ 71–74, notwithstanding that the violation resulted from negligence of the carrier's yardmaster.

Texas v. *Anderson, Clayton & Company*, 302 U. S. 747.

In this case the Supreme Court denied petition for writ of certiorari to review a decision of the Circuit Court of Appeals for the Fifth Circuit, reported in 92 F. (2d) 104, wherein the Court held:

Grading, sampling, and assembly of cotton at seaport, to which it was transported by rail from interior of State, in preparation for further shipment to other States or countries, and appropriation of single shipment to more than one order for export or further shipment in interstate commerce, did not deprive movement thereof within State of its interstate character, so that shippers were entitled to compress shipments at other points in direct line of transit

than compress point nearest point of origin, and were not liable for combination of local rates on such shipments.

By denying the writ, the decision referred to becomes final.

Western Maryland Ry. Co. v. *Penn Veneer Co.*, 302 U. S. 745.

The Circuit Court of Appeals for the Third Circuit in 92 F. (2d) 146, sustained our reparation award in Docket No. 23120, *Penn Veneer Co.* v. *Western Maryland Ry. Co.*, 194 I. C. C. 317, and in its decision the Circuit Court of Appeals said:

> The order of reparation constituted a prima facie case for the plaintiffs. *Morgan Co.* v. *Great Northern Ry. Co.* (C. C. A.) 285 F. 876; 49 U. S. C. A. Section 16 (2). The rates on lumber were known and have not been shown to be unreasonable. Since these rates, which constitute the standard for computing damages in this case, are published and are the only legal rates, they are assumed to be reasonable. It follows that the related rates on logs are likewise reasonable, and when the rates charged by the defendants exceeded them, they were unreasonable.

On November 8, 1937, the Supreme Court denied petition for writ of certiorari to review this decision, which under those circumstances becomes final.

Davison Gulfport Fertilizer Co. v. *Gulf & Ship Island R. Co.*, 302 U. S. 738.

In this case the Supreme Court had before it a petition for writ of certiorari to review a decision of the Circuit Court of Appeals for the Fifth Circuit, report in 92 F. (2d) 107, wherein that Court held that this Commission had jurisdiction over the railroad's wharfage charges at Gulfport, Miss., applying on shipments transported by respondent by rail in interstate commerce, to the exclusion of the Secretary of War under Joint Resolution of June 14, 1906. By denying the writ, the Supreme Court declined to disturb this ruling.

United States v. *Northern Pacific Ry. Co.*, 302 U. S. 750.

In this case the Supreme Court denied petition for writ of certiorari to review a decision of the Court of Claims, reported in 18 F. Supp. 543, holding that the United States Government had no right to recover from the Railway Company the amount of $1,521,696.93, which was the total, including interest, of overpayments made by the Secretary of the Treasury to the carrier under certificates of this Commission pursuant to the guaranty provisions of the Transportation Act of 1920, Section 209 (h) and Section 212.

St. Francis Levee District v. *Kurn*, 302 U. S. 750.

This was a suit in the Arkansas Federal Court by trustees of a railroad (in reorganization under sec. 77 of the Bankruptcy Act in the Federal Court at St. Louis) to enjoin prosecution of suits in Arkansas State court for enforcement of collection of levee taxes assessed against land owned by the railroad in Arkansas. By denying the petition for writ of certiorari the Supreme Court refused to

disturb the decision of the Circuit Court of Appeals for the Eighth Circuit, reported in 91 F. (2d) 118, which held that the question of the amount of tax liens was for the bankruptcy court, and that court had exclusive jurisdiction of all the property of the railroad.

Delaware and Hudson R. Corp. v. *Penn Anthracite Mining Co.*, 302 U. S. 756.

In this case the Supreme Court was asked to review a decision of the Circuit Court of Appeals for the Third Circuit, reported in 91 F. (2d) 634, sustaining our reparation award in Docket 24957, 200 I. C. C. 221. The Court denied petition for writ of certiorari, thus refusing to disturb the decision which had sustained our action.

Annett v. *New York, New Haven & Hartford R. Co.*, 303 U. S. 650.

This case involved the status of a claim for personal injury in the reorganization proceedings of the New York, New Haven & Hartford under section 77 of the Bankruptcy Act. The decision of the lower court, reported in 92 F. (2d) 428, held that such claims were not entitled to priority as unsecured claims. By denying certiorari, on March 7, 1938, the decision of the lower court became final.

Fox & London, Inc. v. *Pennsylvania R. Co.*, 304 U. S. 566.

This was a suit by the carrier to collect an undercharge, the difference between the fourth class rate applicable on aluminum scrap, and the fifth class rate paid on white metal alloy scrap. The lower court in its opinion (93 F. (2d) 669) had stated:

> Of course the Interstate Commerce Commission only has such jurisdiction as has been conferred upon it by Congress, and that does not give it the power to make orders adjudicating claims of carriers against shippers and requiring the payment of such claims. See *Davis* v. *Rochester Can Co.*, 220 App. Div. 487, 221 N. Y. S. 666, affirmed *Mellon* v. *Rochester Can Co.*, 247 N. Y. 521, 161 N. E. 166; *Laning-Harris Coal & Grain Co.* v. *St. Louis & San Francisco R. Co.*, 15 I. C. C. 37. So jurisdiction of such a controversy as this is vested exclusively in the courts. * * * .
>
> (Id. 670.)

By refusing certiorari the Supreme Court declined to review this ruling.

Blumgart v. *St. Louis-San Francisco Ry. Co.* 304 U. S. 567.

This was a proceeding under section 77 of the Bankruptcy Act for the reorganization of the Frisco, to review a decision of the Circuit Court of Appeals for the Eighth Circuit, reported in 94 F. (2d) 712. In that proceeding the lower court held:

> In a railroad reorganization proceeding in the bankruptcy court, holders of bonds, secured by a mortgage on part of the railroad system are entitled under the statute to file their claims, if the mortgage trustee fails to do so, and must file their claims in order to secure recognition and classification in the reorganization proceeding. Bankr. Act § 77 (c) (7), as amended, 11 U. S. C. A. § 250 (c) (7).

The holders of bonds secured by a railroad mortgage are the creditors under the mortgage.

As the statute relative to railroad reorganization proceedings in the bankruptcy court permits bondholders to file their claims if the mortgage trustee fails to do so, a provision of the mortgage vesting exclusive right of action in the trustee is ineffectual to the extent that it is prejudicial to such statutory right of the bondholders. Bankr. Act § 77 (c) (7), as amended, 11 U. S. C. A. § 205 (c) (7).

As the rights of the holders of bonds secured by a mortgage on part of a railroad system may be fully protected in a corporate reorganization proceeding either by the trustee filing a claim for all of the bondholders or by the bondholders filing for themselves, there is no necessity for a special intervention by the bondholders, and a special intervention is not a matter of right, but addressed to the judicial discretion of the court.

On May 16, 1938, the Supreme Court denied petition for writ of certiorari to review this decision, which, under the circumstances, becomes final.

Mayer v. *Ames*, 305 U. S. —.

In this case the lower court (133 Ohio St. 458) upheld a municipal ordinance requiring inspection of all motor vehicles used on streets of a city, including those owned by the United States Government, but excepting those bearing unexpired inspection certificates of another public authority.

Missouri Pacific R. Co. v. *Graves*, 305 U. S. —.

In this case the lower court, in a decision reported in 118 S. W. (2d) 787, held that an individual riding in a box car as an attendant to livestock moving in interstate commerce, although he had no ticket and was not named in contract of shipment, was, under Missouri State law, a passenger of the railroad which was liable for injuries to him.

On October 10, 1938, the Supreme Court denied petitions for writs of certiorari in the two last-mentioned cases, thus making the decisions final.

BUREAU OF LOCOMOTIVE INSPECTION

The work of this Bureau is shown in detail in the report of the Chief Inspector, published separately. Except as otherwise stated the report here made is for the fiscal year ended June 30, 1938.

The following tables covering the fiscal years indicated are self-explanatory.

TABLE I.—*Reports and inspections—Steam locomotives*

	Year ended June 30—					
	1938	1937	1936	1935	1934	1933
Number of locomotives for which reports were filed	47,397	48,025	49,322	51,283	54,283	56,971
Number inspected	105,186	100,033	97,329	94,151	89,716	87,658
Number found defective	11,050	12,402	11,526	11,071	10,713	8,388
Percentage inspected found defective	11	12	12	12	12	10
Number ordered out of service	679	934	852	921	754	544
Total number of defects found	42,214	49,746	47,453	44,491	43,271	32,733

TABLE II.—*Accidents and casualties caused by failure of some part of the steam locomotive, including boiler, or tender*

	Year ended June 30—					
	1938	1937	1936	1935	1934	1933
Number of accidents	208	263	209	201	192	157
Percent increase or decrease from previous year	20.9	[1] 25.8	[1] 4.0	[1] 4.7	[1] 22.3	[1] 8.3
Number of persons killed	7	25	16	29	7	8
Percent increase or decrease from previous year	72.0	[1] 52.2	44.8	[1] 314.3	12.5	11.1
Number of persons injured	216	283	215	267	223	256
Percent increase or decrease from previous year	23.7	[1] 31.6	19.5	[1] 19.7	12.9	[1] 64.1

[1] Increase.

TABLE III.—*Accidents and casualties caused by failure of some part or appurtenance of the steam locomotive boiler*[1]

	Year ended June 30—							
	1938	1937	1936	1935	1934	1933	1915	1912
Number of accidents	59	63	75	68	63	53	424	856
Number of persons killed	5	19	10	24	4	3	13	91
Number of persons injured	59	73	80	119	77	55	467	1,005

[1] The original act applied only to the locomotive boiler.

TABLE IV.—*Reports and inspections—Locomotives other than steam*

	Year ended June 30—					
	1938	1937	1936	1935	1934	1933
Number of locomotive units for which reports were filed	2,555	2,416	2,361	1,911	1,288	1,349
Number inspected	4,024	3,615	3,118	1,620	1,436	1,368
Number found defective	274	328	252	146	69	74
Percentage inspected found defective	7	9	8	9	5	5
Number ordered out of service	9	24	11	5	4	4
Total number of defects found	769	991	674	447	158	176

TABLE V.—*Accidents and casualties caused by failure of some part or appurtenance of locomotives other than steam*

	Year ended June 30—				
	1938	1937	1936	1935	1934
Number of accidents	4	12	9	8	1
Number of persons killed					
Number of persons injured	4	14	9	8	1

INVESTIGATION OF ACCIDENTS AND GENERAL CONDITION OF LOCOMOTIVES

All accidents reported to the Bureau as required by the law and rules were carefully investigated and appropriate action taken to prevent recurrence as far as possible. Copies of reports of our accident investigations were furnished to interested parties when requested and otherwise used in our effort to bring about a diminution in the number of such accidents.

In addition to the accidents shown in the tables and otherwise referred to in this report there was reported to the Bureau a total of 84 accidents in which 7 employees were killed and 77 employees injured in falls while in the performance of their duties on locomotives. None of these falls could be attributed to any features encountered in connection with the condition of locomotives, it being apparent in each instance that the falls were caused by inattention or sudden illness on the part of those killed and injured. These accidents do not come within the scope of the locomotive inspection law but are mentioned here in order to emphasize the necessity of alertness on the part of all persons employed on or about locomotives.

STEAM LOCOMOTIVES

Two hundred and eight accidents occurred in connection with steam locomotives, resulting in 7 deaths and 216 injuries. This represents a decrease of 20.9 percent in the number of accidents, a decrease of 72 percent in the number of persons killed, and a decrease of 23.7 percent in the number of persons injured compared with the previous year.

During the year 11 percent of the steam locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use; this represents a reduction of 1 percent compared with the results obtained in each of the past 4 years. There was a decrease of 27.3 percent in the number of locomotives ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe.

EXPLOSIONS AND OTHER BOILER ACCIDENTS

There was a decrease of 4 in the number of accidents, a decrease of 12 in the number of persons killed, and a decrease of 7 in the number of persons injured as a result of boiler explosions or crown-sheet accidents as compared with the previous year.

All of the five explosions that occurred in the past fiscal year, in which five persons were killed and three injured, were caused by overheating of the crown sheets due to low water. This is the least number of explosions experienced in any 1 year ever recorded with the exception of the fiscal year ended June 30, 1933, in which year the same number of explosions occurred resulting in the death of two persons and the injury of six persons.

In one of the accidents, which caused the instant death of two employees and the fatal injury of one employee who died 2 days later, the force of the explosion tore the boiler from the frame, hurling it upward and 486 feet directly forward where it struck the rails front end first, then bounded upward and forward and came to rest 741 feet from the point of the explosion. Parts of the wreckage were scattered in all directions for various distances up to 1,170 feet.

In another instance, while the locomotive was in charge of an engine watchman who was killed in the accident, the force of the explosion tore the boiler from the frame and it alighted on a highway approximately 200 feet from the place where the locomotive was standing at the time the explosion occurred. Parts of the wreckage were scattered over a radius of 840 feet.

Boiler and appurtenance accidents other than explosions resulted in the injury of 56 persons; compared with the previous year this is a reduction of 2 persons killed and 4 persons injured in accidents originating from failures of these parts.

EXTENSION OF TIME FOR REMOVAL OF FLUES

Six hundred and eighty applications were filed for extensions of time for removal of flues, as provided in rule 10. Our investigations disclosed that in 46 of these cases the condition of the locomotives was such that extensions could not properly be granted. Thirty were in such condition that the full extensions requested could not be authorized, but extensions for shorter periods of time were allowed. Thirty-one extensions were granted after defects disclosed by our investigations were required to be repaired. Thirteen applications were canceled for various reasons. Five hundred and sixty applications were granted for the full periods requested.

LOCOMOTIVES PROPELLED BY POWER OTHER THAN STEAM

There was a decrease of 8 in the number of accidents occurring in connection with locomotives other than steam and a decrease of 10 in the number of persons injured as compared with the previous year. No deaths occurred in either year.

During the year 7 percent of the locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use as compared with 9 percent in the previous year. There was a decrease of 15 in the number of locomotives ordered withheld from service by our inspectors, because of the presence of defects that rendered the locomotives immediately unsafe.

SPECIFICATION CARDS AND ALTERATION REPORTS

Under rule 54 of the Rules and Instructions for Inspection and Testing of Steam Locomotives, 412 specification cards and 4,438 alteration reports were filed, checked, and analyzed. These reports are necessary in order to determine whether or not the boilers represented were so constructed or repaired as to render safe and proper service and whether the stresses were within the allowed limits. Corrective measures were taken with respect to numerous discrepancies found.

Under rules 328 and 329 of the Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam, 228 specifications and 51 alteration reports were filed for locomotive units and 98 specifications and 45 alteration reports were filed for boilers mounted on locomotives other than steam. These were checked and analyzed and corrective measures taken with respect to discrepancies found.

APPEALS

No formal appeal by any carrier was taken from the decisions of any inspector during the year.

BUREAU OF MOTOR CARRIERS

GENERAL PROGRESS OF ADMINISTRATION

In our report of last year we stated that one of the most pressing tasks of the Bureau was that of disposing of applications for certificates and permits under sections 206 (a) and 209 (a) (the "grandfather" clauses), but that means of expediting such work were under active consideration. These means were put into force during the current year. Evidence upon which practically all the grandfather applications will be disposed of has been adduced. Issuance of many certificates and permits has been delayed because of important questions of construction not yet decided. But since the work of procur-

ing evidence has been substantially completed, final disposition of the grandfather cases is in sight.

A promising beginning has been made in the accomplishment of one of the prime purposes of regulation, that is the establishment of stable and reasonable rates. In an investigation on our own motion, minimum class and commodity rates were prescribed for all motor common carriers operating between the New York area and the Baltimore area. In like proceedings, such rates were prescribed within New England and between New England points and points in eastern New York and northeastern New Jersey, and also within what is known as central territory. In further proceedings of similar character, common carrier rates in other sections of the country are under consideration, and likewise the rates of contract carriers in central territory. These proceedings were necessary, because of the desperate financial straits to which most of the carriers had been brought by competitive rate cutting. We believe that they will furnish the foundation for the establishment of stable and consistently adjusted rate structures.

Progress has been made in the field of enforcement of the act. The details of these activities will be stated later, but special importance is to be attached to two particular classes of cases. One involved the Nation-wide prosecution of violators of the act generally known as travel bureaus. Those who were prosecuted were operating under the pretense that they merely bring together casual transporters on the one hand and persons willing to share the expense of travel on the other. It was shown, however, that the actual transporters were motorcar operators engaged in transportation as a regular occupation. Operations of this kind have often been characterized by flagrant misconduct, such as abandoning passengers in inconvenient and out-of-way places, and by serious accidents occasioned by lack of safety precautions. The successful prosecution of 39 such concerns has greatly reduced the prevalence of this particular form of evasion of the act and of the resulting injury to the public.

The other group of cases involved the successful prosecution of shippers as accessories to violations of the act by motor carriers of property. In many instances the carrier who grants rebates or concessions does so reluctantly and only because of pressure upon him imposed by the shipper. In such instances the conduct of the shipper seems more deserving of condemnation than that of the carrier. Successful prosecution of shippers in these cases has had a wholesome effect.

In some of the cases and proceedings which have been instituted, constitutional questions have been raised and have been disposed of in favor of the validity of the act.

In our preceding report, we stated that experience under the Motor Carrier Act, 1935, had shown the need for perfecting amendments, which would be covered in a special report to the Congress, as contemplated in Section 204 (a) (7) of that act. Pursuant thereto, on February 25, 1938, we submitted a report to the Congress recommending sixteen specific amendments to the Motor Carrier Act. After hearings before both Senate and House Committees, these amendments were adopted in substantially the form recommended by us, and became effective on June 29, 1938. The changes effected were mainly procedural, to permit of greater simplicity and informality in our procedure and to expedite and facilitate administrative action. Our experience under these amendments has as yet been too brief to permit of any complete appraisal of their efficacy, but there is every reason to believe that their effect will be beneficial.

During the past year additional rules and regulations have been promulgated. Rules governing the transfer of operating rights under the provisions of section 212 became effective September 1, 1938. Effective January 1, 1938, we prescribed accounting classifications governing the forms of accounts to be kept by class I carriers of passengers and property. Later we prescribed regulations requiring monthly and quarterly reports from such carriers. It is gratifying to report that splendid cooperation with State authorities has been received in respect to these accounting regulations. In many States forms of accounts and of reports covering the intrastate operations of such carriers are required by State authorities. Since most large carriers are engaged both in interstate and intrastate operations, it was feared that a heavy burden might be placed upon them by the requirement that differing forms of accounts be kept and differing forms of reports be required. To meet this situation, informal correspondence was inaugurated with the State authorities with the result that in the case of all States, save one, in which forms of accounts are prescribed for intrastate motor carriers, the carrier will be required to keep but one set of accounts and that is to be in conformity with our requirements.

During the year, rules governing hours of service were also promulgated. These rules, in brief, prescribe that drivers of vehicles must have at least 8 hours of rest after 10 successive hours of driving and that the total hours on duty during any 1 week shall not exceed 60. They have been in effect since October 1, 1938, for carriers of passengers, but were postponed until December 1, 1938, in respect to the operations of carriers of property and further hearings have been assigned. Hearings have also been assigned in respect to the prescription of hours of service for private carriers.

The safety regulations prescribed by us for common and contract carriers became effective last year. Cooperation with State authorities referred to in our last report has continued, with the result that any carrier engaged in interstate or foreign commerce who complies with our safety rules will be in compliance with the rules of all the States with one exception.

The accident reports required by your rules have begun to accumulate so that it is anticipated that we will soon have data from which we will be able to obtain more accurate information as to the causes and means of prevention of accidents in motor-vehicle operation than has hitherto been available.

There have been circulated for comments and criticism tentative revised tariff rules designed to improve and simplify the requirements as to the preparation and filing of rate publications.

Considerable complaint has been made of the methods of charging for the transportation of household goods, some carriers charging by weight and others by cubic measurement. A general investigation of these practices was instituted by us and is now in progress, its object being to prescribe, if warranted, a uniform practice in this respect.

The principal cases decided during the current year include a decision in *Scott Bros., Inc., Collection and Delivery Service*, 4 M. C. C. 551, finding that the operations of motor carriers under contract with rail carriers in terminal areas are not subject to regulation under part II of the Interstate Commerce Act but are included in the regulation of rail carriers under part I thereof. Our finding in the case of *Acme Fast Freight, Inc., Common Carrier Application*, 8 M. C. C. 211, was that such freight forwarders are neither brokers nor motor carriers, as those terms are defined in the act, although they are common carriers at common law.

In *Bigley Bros., Inc., Contract Carrier Application* 4 M. C. C. 711, we found that the "common arrangement" referred to in the municipal area exemption (section 203 (b) (8)) must be one between carriers.

In *D. L. Wartena, Inc., Common Carrier Application* 4 M. C. C. 619, we clarified our findings in the *Carpenter Common Carrier Application*, 2 M. C. C. 85, respecting the status of a person engaged in transporting goods of which he is the owner, and found that transportation by a dealer merely to replenish his stock is private carriage, even though compensation therefor is included in the selling price; but that transportation of goods owned by the dealer, destined to subdealers who could have procured the transportation by other means is common carriage.

In *Union Pac. R. Co.—Control—Union Transfer Co.*, 15 M. C. C. 101, we found that although section 213 does not prohibit cooperation of two or more railroads in a joint acquisition, the three railroads therein applicant have such divergent interests that coordination of rail-and-highway transportation could better be accomplished through completely controlled companies, and that at this stage of motor-carrier development it is not consistent with the public interest for three major railroads jointly to enter the trucking field in the unrestricted manner proposed.

In *Tamiami Trail Tours, Inc.—Purchase— Elliott Young*, 15 M. C. C. 22, we found that a mere potential right to operate in interstate or foreign commerce under the second proviso of section 206 (a) is not transferable.

In *Illinois Greyhound Lines, Inc.—Purchase — White Star*, 15 M. C. C. 86, we found that an actually exercised right to operate in interstate or foreign commerce under the second proviso of section 206 (a) is transferable, without regard to certain restrictions in the State certificate.

In *Washington Motor Coach Co., Inc.—Stock*, 5 M. C. C. 524, we found, under section 214, that a contract to purchase real estate by installments is a "security" within the meaning of that section.

In *Detroit & Canada Tunnel Corp.—Merger*, 5 M. C. C. 692, we denied, among other things, authority to issue $750,000 in bonds "without any increase whatever in its (applicant's) tangible assets and for the principal purpose of getting rid of a competitor."

SECTION OF ACCOUNTS

Pursuant to the authority contained in section 204 (a) of the act, a uniform system of accounts was prescribed for class I motor carriers of property and class I motor carriers of passengers. For accounting purposes carriers were classified in three groups as follows:

Class I, (carriers whose gross revenues from transportation services aggregated $100,000 or over annually.)

Class II, (carriers whose gross revenues from transportation services aggregated $25,000 or over annually, but less than $100,000.)

Class III, (carriers whose gross revenues from transportation services aggregated less than $25,000 annually.)

Systems of accounts have not as yet been prescribed for class II and class III motor carriers. Effective regulation of the accounting practices of these classes of carriers requires educational work, which because of inadequate appropriation and personnel we are not at present equipped to undertake.

Our regulations require class I carriers of passengers to file monthly reports showing the amount of passenger revenue and the number

of passengers carried during the current month and during the same month of the preceding year. Class I carriers of property and class I carriers of passengers are required to file quarterly reports showing revenue and expense data, and certain operating statistics for the current quarter, also cumulative figures for the current year and the same data for the corresponding period of the previous year.

Forms of proposed annual reports for class I carriers have been drafted and were the subject of conferences between representatives of State public utility commissions and employees of our Section of Accounts. Agreement regarding the requirements was reached and the matter is now before us for consideration and decision.

During the year, 558 statements showing income and statistical data were submitted by class I carriers in response to orders issued in connection with proceedings involving the consideration of the reasonableness of rates. Summaries of these reports showing financial data of representative carriers were prepared by this section and submitted as exhibits in these proceedings to assist us in disposing of the matters at issue.

This section examines the carrier accounts in connection with authorizations for acquisitions of control, mergers, and consolidations under section 213 of the act. In the current year, 190 such cases were handled. It also analyzed financial and operating statements filed in support of applications for authority to self-insure and prepared reports for our consideration in determining the qualifications of the applicant.

Accounting investigations were made in connection with inquiries into alleged violations of the act. The evidence thus obtained was used in prosecutions for violations of the act or in otherwise disposing of the cases.

SECTION OF CERTIFICATES AND INSURANCE

In our previous report we outlined the duties and functions of this section under the act, as originally enacted. Following the amendments to the act approved June 29, 1938, we imposed upon this section the additional duties of handling applications for emergency authority under section 210a (a). These duties consist of examining the applications, developing the evidence, and submitting reports thereon for our consideration.

The year covered by this report is the third full year in which we have been receiving applications for certificates, permits, and licenses. During the current year, the number of such applications filed since the effective date of the act increased from 89,446 to 93,364.

Much progress has been made in the disposition of applications for certificates and permits and the determination of the operating rights

of motor carriers subject to our jurisdiction, as will be observed from the following table:

Grandfather applications[1] filed prior to February 12, 1936	80,925
Grandfather applications filed after February 12, 1936	5,647
Applications for authority to institute new operations	6,792
Total applications received	93,364
Applications approved	20,617
Applications denied, dismissed, or withdrawn	42,670
Applications pending	30,077
Total	93,364

[1] Grandfather applications are applications filed under sections 206 (a) and 209 (a) of the act by motor carriers who claim to have been in bona fide operation on June 1, 1935, as common carriers, or on July 1, 1935, as contract carriers.

The applications approved include both grandfather applications and applications for authority to institute new operations.

We approved the 20,617 applications either because we found that the applicants were in bona fide operation on the respective grandfather dates or, in the case of applications to institute new operations, because we found that the proposed new operations by common carriers were required by public convenience and necessity, and proposed operations by contract carriers were consistent with the public interests.

We denied the 42,670 applications either because we found the carriers were not in bona fide operation on the respective grandfather dates or had ceased operations thereafter, or in applications to institute new operations, that they were not required by public convenience and necessity in the case of common carrier applications, or were not consistent with the public interest in the case of contract carrier applications. Field investigations on all except 67 grandfather applications have been completed, but hearings will be required on many consolidated grandfather applications and also on applications for authority to institute new operations.

TEMPORARY AUTHORITY UNDER SECTION 210A (A)

By amendments approved June 29, 1938, we were empowered to grant temporary authority, not to exceed 180 days, to motor carriers "to enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need * * *." There have been filed 206 requests for such temporary authority of which 37 have been granted, 112 have been rejected or denied, and 57 are awaiting additional information before final determination. The large number of such applications rejected or denied is due to the fact that investigation revealed, in most instances, that there are existing car-

riers capable of performing the proposed service, or that applicant failed to establish that there exists an immediate and urgent need for such service.

IDENTIFICATION PLATES

On May 7, 1937, rules and regulations were issued under authority of section 224, requiring that on and after October 1, 1937, motor carriers display an identification plate upon the rear of each vehicle (bus, truck, tractor, or trailer) operated. The plates are issued upon application and the payment of 25 cents for each plate. Such payments have totaled $49,417.25 and this amount has been transmitted to the Treasury. These plates are not required to be renewed from year to year. To October 31, 1938, 197,669 plates had been issued. The use of this means of identification has had a salutary effect on the administration of the act, as the plates are not issued until there has been compliance with our insurance and rate filing requirements.

INSURANCE OR OTHER SECURITY FOR THE PROTECTION OF THE PUBLIC

In our last report we outlined the rules and regulations issued under section 215 of the act governing the filing of insurance or other security for the protection of the public by motor carriers and indicated that insurance is the chief type of security furnished.

There are on file some 51,000 effective certificates of insurance received from approximately 35,000 motor carriers. The difference in the number of motor carriers who have filed insurance and the number whose applications for operating authority have been approved or are pending is due in part to the fact that motor carriers engaged in operations within contiguous municipalities and adjacent commercial zones are under our regulation temporarily exempt from the requirements with respect to the filing of insurance or other security.

Applications for authority to self-insure have been approved in only 17 cases, which represents about 15 percent of such applications received. Disapproval of such a large percentage of such applications has been due to the inability of the motor carriers to establish to our satisfaction that the obligations of self-insurance could be assumed without endangering the public interest or the stability and permanency of the motor carrier's operations.

SECTION OF COMPLAINTS

The duties of the Section of Complaints were described in our last report.

The formal complaints filed and the investigations and investigation-and-suspension cases instituted during the period covered by this report numbered 23, 24, and 298, respectively. We decided 3

complaint-and-answer cases, 16 investigations, and 22 investigation-and-suspension cases, including in each instance cases left from the preceding year; and 8 complaint-and-answer cases, 3 investigations, and 194 investigation-and-suspension cases were dismissed at the request of the parties. Ten investigations have been reopened for further hearing and reconsideration. The section conducted 150 hearings on this type of proceedings. In addition, 819 informal complaints and approximately 4,200 letters were received.

The following table indicates the condition of the docket of formal complaints, investigations, and investigation-and-suspension cases as of October 31 of the years indicated:

	1937	1938
Formal complaints filed	36	23
Subnumbers	6	6
Investigations instituted	12	24
Investigation and suspension cases instituted	194	298
Cases under submission at end of period	18	38
Cases disposed of, including subnumbers, reopened cases, and cases instituted in the preceding year	186	275
Reopened	1	10
Number of cases pending	125	211

During the period covered by this report the section also conducted hearings on 3,803 applications which sought authority for operations as common carrier, contract carrier, or broker. During the same period, we served on the interested parties, 3,722 recommended reports and orders which had been prepared by the joint boards, of which 298 have now been created, or by our examiners. Of the orders recommended, 2,464 took effect because no exceptions thereto were filed and we did not stay them under the authority granted us by section 205 of the act. We ourselves decided 409 cases. We reopened 195. Cases under review number 1,066, and cases heard, in which recommended reports and orders have not been served, number 1,073.

Because of the large number of pending applications for authority to conduct operations as common carriers, contract carriers, and brokers, we initiated two methods during the period covered by this report, which were designed to bring about more prompt disposition of such proceedings. The first of these methods obviates a formal hearing where, after a field investigation, we are of the opinion that our action in approving or disapproving the application will be accepted. In such cases the recommended report and order of the appropriate joint board or examiner, based upon the evidence submitted in support of the application, is prepared and served on the interested parties. If thereafter a protest is filed and a hearing requested, the proceeding is assigned for formal hearing. Although this modified procedure has been in effect only since the beginning

of the present calendar year, the number of formal hearings has been greatly reduced, and we are able to dispose of a larger number of cases in a shorter period of time than otherwise would have been required. The results of this modified procedure are as follows:

Number of cases in which recommended reports and orders have been served, 588.

Number of cases in which recommended orders have become effective because no exceptions were filed and we did not stay them, 399.

Number of cases in which exceptions were filed or in which we stayed the recommended order, 12.

Number of final reports adopted by us, 8.

Reopened, 9.

Withdrawn or dismissed, 6.

Number of cases in which formal hearing was required, 119.

Number of cases pending, 410.

The second method mentioned above involves the issuance of a short report. When, after a formal hearing, the joint board or examiner believes that the issue is simple and the conclusions will not be contested, a short form of report is prepared immediately upon the close of the hearing, and transmitted to us for service. This report consists of a brief statement of the issues and the conclusions of the joint board or the examiner as well as a draft of the recommended order. Since such report does not contain a discussion of the evidence or of the law, it may be quickly prepared and served. If thereafter exceptions are filed by a party in interest, the Commission prepares and serves a report which contains a full discussion of the evidence and principles of law.

This method was likewise instituted since the first of the calendar year and the results so far accomplished are as follows:

Number of cases in which "short form" recommended reports and order have been served, 481.

Number of recommended orders which have taken effect because no exceptions were filed and we did not stay them, 353.

Number of recommended orders to which exceptions were filed or which we stayed, 70.

Number of cases decided by us, 14.

Reopened, 6.

Number of cases pending, 157.

SECTION OF LAW AND ENFORCEMENT

The duties of the law branch and the enforcement branch were explained in our last report.

The status of complaints and litigation during the year is as follows:

Number of complaints received	3,474
Average filed per month since Nov. 1, 1937	286
Number of complaints closed (including a part of the 6,875 complaints received prior to Nov. 1, 1937)	5,704
Average closed per month since Nov. 1, 1937	475
Number of complaints pending	2,258
Number of violations by type:	
Operating without authority	2,406
Nonobservance of rates and charges on file	1,312
Unification without authority	25
Nonobservance of safety regulations	12
Insurance requirements	123
Accounting requirements	5
Miscellaneous	200
Total (including complaints charging more than 1 violation)	4,083
Complaints:	
Investigations concluded and reviewed (including cases received prior to Nov. 1, 1937, but handled during the current year)	5,704
Under investigation by special agents or field staff, or awaiting investigation or other disposition	2,258
Total	7,962
Cases involving litigation, on hand at beginning of current year:	
Civil	3
Criminal	51
Total	54
Recommended for litigation:	
Civil	57
Criminal	123
Total	180
Court cases instituted:	
Civil	30
Criminal	117
Total	147
Court cases concluded:	
Civil	33
Criminal	134
Total	167
Cases awaiting institution:	
Civil	23
Criminal	42
Total	65

The policy of encouraging voluntary compliance with the act is still being followed and has been largely successful. There have been 134 convictions in criminal cases and the entry of appropriate decrees in 33 civil cases. In criminal cases already disposed of fines have been assessed to the aggregate of $68,144.39, though in several instances suspensions of sentences have been granted by the courts and the full amount of fines has not been collected.

SECTION OF RESEARCH

Our reports for the 2 preceding years have indicated the importance we attach to the contribution which research investigations can make to the effective administration of the Motor Carrier Act. Funds have not yet been available, however, to enable us to carry on an adequate research program. During the current year the time of the small group engaged in this class of work has been devoted, among other things, to the sizes and weight investigation and to the matter of hours-of-service regulations, including participation in planning the study of driver fatigue now in process in cooperation with the Bureau of the Public Health Service of the Department of the Treasury. Aid has been given other sections on special problems. Much work remains to be initiated.

SECTION OF SAFETY

Further progress was shown during the year toward Nation-wide uniformity in safety requirements for busses and trucks, based on our Motor Carrier Safety Regulations. A statement was issued as of September 1, 1938, showing that 18 States have adopted all or very substantial portions of the four parts of our regulations for application to intrastate operators; that 15 others have adopted various items of the regulations; and that 8 others, at their own request, have been provided with supplies of our Motor Carrier Safety Regulations for the use of their enforcement officers. It is apparent that our regulations have provided a material stimulus toward greater uniformity in certain fundamental safety requirements throughout the country.

A report was issued outlining information furnished by common and contract carriers relating to drivers of motor vehicles engaged in interstate or foreign commerce as of July 1, 1937. It contained many data not heretofore available on the characteristics of bus and truck drivers. Illustrative of the information in this report was the fact that only 34 percent of these drivers had ever undergone a medical examination in connection with their employment, but that more than 98 percent of them held a chauffeur's or operator's license in at least one State.

During this period, we entered into arrangements with the United States Public Health Service for tests on driver fatigue, the expense incident to such tests being borne by us from funds appropriated for the administration of the Motor Carrier Act. Such cooperation is authorized by Section 204 (a) (5) of the Motor Carrier Act.

Work on the preparation of regulations applicable to the transportation of explosives and other dangerous articles by common, contract, and private carriers by motor vehicle nears completion. A lengthy series of conferences and interviews culminated in the issuance early in September of a third draft of proposed regulations on this subject, which was made the basis of evidence submitted at hearings held at Los Angeles, Calif., and Tulsa, Okla., during October, and to be held in Washington, D. C., in November.

The first analytical report of accidents reported to us under the requirements of our Motor Carrier Safety Regulations, Part IV, and covering the initial reporting period from April 1 to December 31, 1937, was completed. This report showed certain data as to the circumstances surrounding highway accidents which were similar to the information contained in reports of many States on general motor-vehicle accidents; in addition, however, it contained much new information on such items as the hours of service of drivers prior to accidents, the nature of cargoes transported, types of vehicles involved, police action resulting from accidents, and others.

Continued attention was given the safety of operation of our Bureau of Motor Carriers fleet of approximately 100 cars, in use by district directors and district supervisors throughout the country. The Bureau fleet participated in the National Fleet Safety Contest of the National Safety Council during the 12 months, July 1937–June 1938, inclusive. Eight accidents occurred in the fleet during this period, resulting in one personal injury and about $450 property damage, with more than 700,000 car-miles operated, a frequency rate of 1.11 accidents per 100,000 miles. This record may be better visualized in comparison with the other principal groups participating in the National Safety Council Contest, accident frequencies of which per 100,000 miles operated were as follows: All fleets, 2.22; truck, 2.55; bus, 2.14; passenger car, 1.80; Bureau of Motor Carriers fleet, 1.11. Continuing its safety program for its own fleet, the Bureau authorized installation of fire extinguisher, first-aid kit, and flashlight on every Bureau car.

Despite the preoccupation of the field personnel of the Bureau with grandfather applications and similar duties, the Section completed in large part its plans for enforcement of our Motor Carrier Safety Regulations. A bulletin of instructions was issued to the field staff, explaining the use of three forms upon which will be based much of the field work of the future; "Observation Report," to

be used in recording the practices of drivers and the condition of vehicles as observed on the highways; "Vehicle Inspection Report," to be used in inspecting vehicles to determine compliance with the requirements of the Motor Carrier Safety Regulations; and "Terminal Inspection Report," to be used in surveying the activities of any motor carrier in promoting the safety of its own operations. Methods of enlisting State cooperation in these activities were tested, and in some States a system of cooperative reporting was established. Authorization was given for the employment of a small initial corps of safety inspectors, who will devote their full time to safety work, and the Civil Service Commission announced a competitive examination for these positions. It is expected that the first inspectors will be employed early in 1939. Others will be added if sufficient funds are provided.

In an attempt to determine whether or not the current practices of representative motor carriers throughout the country offered any solution for the problem of speed control, the section conducted a special inquiry by questionnaire methods. Carriers to the number of 350 submitted replies in considerable detail, and a report was compiled upon the basis of these replies. Results of the compilation, however, were inconclusive and no report was published.

A member of the section represented the Commission at the Twenty-fourth International Labor Conference in Geneva, Switzerland, in June 1938, as one of a number of advisors to the four American delegates to the conference. The appointment was made at the request of the Department of State, which defrayed the expenses of the American delegation. One of the items on the agenda of the conference related to the hours of service of workers in the motor-transport industry, and the conference approved a questionnaire which will be sent to all participating governments, and upon the returns from which may eventually be based an International Convention upon this subject.

The section continued its cooperative work with many technical and governmental organizations, among which may be cited the Society of Automotive Engineers, the Illuminating Engineering Society, the American Standards Association, The American Association of Motor Vehicle Administrators, and others. One of the members of the section served as chairman of the Committee on Uniform Traffic Laws and Ordinances of the National Conference on Street and Highway Safety at its quadrennial meeting in Washington in July 1938, and also as chairman of the Committee on Uniform Traffic Accident Statistics in which numerous Government agencies and private organizations are cooperating.

A special inquiry was conducted regarding the comparative merits of laminated safety glass and case-hardened safety glass in motor

vehicles subject to the jurisdiction of the Commission, first by questionnaires and subsequently by hearing. Our findings were that the prohibition in our Motor Carrier Safety Regulations against the use of case-hardened glass in certain specified openings in busses and trucks was justified, and that this prohibition should be extended to cover all window and door openings of such vehicles, effective September 1, 1938.

The Section of Safety cooperated with the Section of Research in starting work on an investigation into the subject of maximum sizes and weights of motor vehicles subject to our jurisdiction. A statement was issued in August 1938, outlining the scope of the proposed investigation, and indicating that our Bureau of Motor Carriers will compile as much available information as possible and issue it in the form of a preliminary report prior to hearings. Early in September a questionnaire was sent to the Governor of each State and to the Board of Commissioners of the District of Columbia asking for detailed information regarding the present limitations in effect upon sizes and weights of motor vehicles, together with some indication of past and present State policy on these matters and the possible future trend of State restrictions. Later, hearings will be held and a report prepared.

Section 203 (b) of the Motor Carrier Act exempts vehicles employed solely in transporting school children and teachers to and from school from all the provisions of the act except those of section 204 relating to qualifications and maximum hours of service of employees and safety of operation and standards of equipment. During the current year we have prescribed maximum hours of service of drivers applicable to such operations.

Each State in the Union provides schools for children of its citizens and therefore it is seldom that busses used solely in transporting teachers and students to and from school are engaged in interstate commerce and subject to our jurisdiction. We are indeed conscious of the importance of regulations requiring such busses to be safely equipped and operated. To a very large extent this is the duty of the several States, and we believe that the proper State officials are conscious of their responsibility and are taking all necessary precautions to prevent accidents to such vehicles.

School busses are frequently used in transporting school children in interstate commerce on trips of considerable length, particularly during the spring and summer vacations. We have prescribed regulations concerning the qualifications and maximum hours of service of drivers of such busses as well as safety of operation and standards of equipment. We should like to emphasize, however, that school districts and other political subdivisions of the various States which operate such vehicles should be reluctant to permit their use in the

transportation of children over long distances and into sections of the country and under traffic conditions with which the drivers are unfamiliar. It has been our observation that while such busses may be entirely safe for transportation of children a few miles from their homes to the local schools they are not properly equipped for long over-the-road operations where they traverse the crowded highways of the country. We regard the transportation of school children as a subject justifying and demanding the closest cooperation between the State regulatory bodies and the local school authorities and us.

SECTION OF TRAFFIC

The general functions of the Section of Traffic were outlined in our 50th Annual Report and need not be detailed here. Briefly, such functions are to handle administrative matters arising under sections 216, 217, 218, and 219 of the act.

For the past 2 years this section has been engaged in carrying on a program of education of motor carriers, the goal of which is to obtain the preparation and filing of tariffs and schedules of minimum charges in such form that the applicable rates may be readily and definitely ascertained. This program has been successful to the extent that publications now being received from motor carriers generally show improvement over publications previously filed. However, it will be necessary to continue this phase of the work for sometime because the carriers have not yet acquired sufficient experience to enable them to publish their rates and charges in a manner that is entirely satisfactory. Furthermore, changes in ownership, and other factors, are instrumental in continually bringing individuals into this field who are without or with but limited experience in such matters.

Our present tariff regulations were formulated with the idea that, in general, each common carrier by motor vehicle would issue its tariff individually. Instead, many carriers elected to have agents publish their tariffs, and the result is large and complicated publications containing rates and charges on behalf of numerous carriers. The individual publications of the larger carriers are equally complicated. Because of this situation, the Section of Traffic during the course of the year prepared comprehensive regulations intended to bring about simplification of tariffs issued by agents and the larger carriers. The proposed regulations were submitted to State commissions, tariff publishing agents, and others, for their criticisms and suggestions. Later, a conference with carriers' representatives was held. The section is now studying the proposed regulations in the light of criticisms and suggestions which have been received.

During the course of the year there have been received 72,795 tariff publications of common carriers of passengers and property, and

5,973 schedules of minimum charges of contract carriers of property. Of this total number we rejected or returned 2,347 as not being in accordance with the provisions of sections 217 (a) or 218 (a) of the act and our regulations issued thereunder. The tariffs and schedules retained in our files have been made available for public inspection not only at our Washington office, but also in our 16 district offices as indicated by our previous reports. As shown in our last report, we required the filing of contracts by contract carriers for our confidential information under section 220 (a) of the act. This section has received and indexed 9,619 such contracts during the year.

Powers of attorney and certificates of concurrence filed aggregate 18,317. Applications received seeking special permission to establish rates, fares, and charges on less than statutory notice, or waiver of certain of our regulations, numbered 5,507. Specific orders have been entered granting 4,392 and denying 1,039 of these applications. The remainder were disposed of otherwise. Correspondence relating to tariff and schedule construction in accordance with our regulations promulgated under sections 217 and 218 consists of 44,418 letters received and 53,950 letters written. For our own use, as well as the use of other branches of the Government and shippers, 5,934 rate memoranda were prepared. Ninety-four applications seeking authority under the provisions of section 219, to establish rates depending upon or varying with released or declared values were received. Of this number 64 were granted, 4 were withdrawn, and 7 are pending, and the remainder disposed of informally. The number granted or disposed of informally includes some which had been received but not disposed of during the previous year.

Changes in rates, fares, or charges have been protested and suspension requested in 787 instances. These protests filed by shippers, motor carriers, and railroads covered not only a large number of rate publications filed by the carriers, but in addition, there were certain instances where we suspended proposed changes in rates on our own motion.

Suspended	300
Refused to suspend	167
Publications rejected, requests for suspension withdrawn, protected issue withdrawn, or no grants for suspension	282
Total	749
Pending	38

SECTION OF FINANCE

During the current year 214 applications have been filed under section 213 as against 286 during the preceding year and 122 during the first year of the Bureau's operation, a total of 622 to date. Hearings have been conducted or applications have been assigned for hearing

of all but three applications received and docketed. Nine cases are receiving consideration for disposition without hearing. Final disposition of 264 cases was effected during the current year as contrasted with 89 during the preceding year.

As originally enacted, section 214 required carriers by motor vehicle, corporations organized for the purpose of engaging in transportation as such carriers, and corporations authorized by order under section 213 to control such carriers, to seek approval of proposed issuance of securities or assumption of any obligation or liability in respect of the securities of another, unless the par value of the securities to be issued, together with the par value of securities outstanding, did not exceed $500,000. However, as a result of recent amendment, section 214 does not now apply to issuance of notes of a maturity of 2 years or less and aggregating not more than $100,000, which notes aggregating such amount including all outstanding obligations maturing in 2 years or less may be issued without reference to the percentage which said amounts bear to the total amount of outstanding securities. During the current year 41 applications under section 214 have been filed, as against 36 during the preceding year, and 11 during the first year of the Bureau's existence, a total of 88 to date. Public hearing is not required for such applications and disposition of substantially all of such applications has been effected.

Applications received during the current year under sections 206, 209, and 212 for the transfer of certificates and permits and for the substitution of new parties in interest in lieu of applicants for certificates or permits covering basic operating rights total 2,101 as against 2,273 during the preceding year and 405 during the first year of the Bureau's existence, a total of 4,779 to date. Disposition was accomplished of 2,445 cases during the current year, an excess of 499 over the preceding year.

FIELD ORGANIZATION

In our previous reports we gave an outline of our field organization and stated that there had been established 16 districts, each with a headquarters office in charge of a district director, who is assisted by 1 or more district supervisors, a rate agent, an examiner and a small clerical and stenographic staff. These district officers are supplemented by a varying number of subordinate offices in charge of a district supervisor. Sixty-five such offices have been established. Since our last report an accountant has been added to the staff of six of the district offices. We expect to place accountants in the remaining district offices, when and if our appropriations make this possible. It is contemplated that safety inspectors will be assigned to the various districts as soon as a civil-service register is established as a result of

a pending examination. Our limited appropriation has not permitted us to add to the district offices the proposed enforcement staff referred to in our last annual report.

During the past year our field staff has been actively engaged in interviewing applicants for certificates and permits under the so-called grandfather provisions of the act, to determine the extent of the operations of such applicants on June 1, 1935, and July 1, 1935, respectively, and since. Each such interview requires the careful examination of proof and the preparation of a detailed report of the evidence submitted. There have been 56,317 such reports prepared and filed with the Bureau since our last report.

In addition to the above, the field staff has received 7,954 informal complaints of alleged violation of the law or our rules and regulations. Of these they have completed the investigation of 5,404. Some of these required extensive investigation as a basis for prosecution.

APPROPRIATIONS

In our last report we outlined in some detail the serious situation with which we were confronted in administering the Motor Carrier Act because of inadequate appropriations. For the current year we were granted $3,250,000 instead of $4,239,000 requested. This reduction has made it impossible for us to administer the act with needed effectiveness and this inability has caused much hardship on those affected by motor-carrier regulation.

BUREAU OF SAFETY

A more detailed report of this Bureau is published as a separate document.

Except as otherwise specified, the report here made is for the year ended June 30, 1938.

ACCIDENT STATISTICS

Casualties on steam railroads in connection with the operation of trains during the calendar year 1937 are summarized as follows:

Class of persons	Number of persons killed	Number of persons injured
Trespassers	2,515	2,289
Employees	557	9,294
Passengers on trains	18	2,508
Travelers not on trains	9	79
Persons carried under contract	5	337
Other nontrespassers	2,014	5,642
Total	5,118	20,149

The corresponding totals for the calendar year 1936 were 5,174 killed and 19,592 injured.

In addition, there were 232 persons killed and 16,543 injured in nontrain accidents, in comparison with 224 killed and 15,114 injured in such accidents during the preceding calendar year.

Steam railroads carried 497,549,000 passengers 24,659,613,000 miles; there were 18 fatalities to passengers on trains, or an average of 1 for each 1,369,978,500 miles traveled.

There were 22 employees killed and 376 injured in coupling or uncoupling locomotives and cars, as compared with 24 killed and 329 injured during 1936. Seventeen employees were killed and 194 injured due to coming into contact with fixed structures, and 41 employees were killed and 1,912 injured in getting on or off cars and locomotives.

Further discussion of the nature and causes of casualties will be found under Investigation of Accidents.

SAFETY APPLIANCES

Forty-three cases of violation of the safety-appliance laws, comprising 97 counts, were transmitted to United States attorneys for prosecution; cases comprising 85 counts were confessed, 7 dismissed, and 7 were tried resulting in judgment for the Government on 6 counts and for the defendant on 1 count. This latter count is pending in the circuit court of appeals. The 3 counts awaiting decision by the court last year were decided in favor of the Government. On June 30, 1938, there were pending in the district courts 35 safety appliance cases containing 77 counts.

The safety appliances on approximately 1,213,000 cars and locomotives were inspected. The number of defects per 1,000 cars and locomotives inspected was 27.72. The corresponding numbers for the preceding year were approximately 1,203,700 inspected and 26.15 defects per 1,000 inspected.

During the year attention has been devoted to a number of matters which affect safety of railroad employment and travel, some of which are briefly referred to as follows:

1. *Brake equipment.*—A rule of the Association of American Railroads requires all freight cars in interchange to be equipped on or before January 1, 1945, with air brakes meeting present standard specifications. This rule became effective January 1, 1935; after 3½ years, or 35 percent of this period, the records show only 11.3 percent of cars in service equipped in accordance with this requirement. Of the total of 192 reporting railroads and 200 reporting private car lines, 107 railroads and 122 private car lines have reported no cars as yet so equipped.

Further tests are in progress to determine the proper cleaning period for present standard freight brake equipment.

Improvement has been noted in efficiency of hand-brake equipment on passenger-train cars as a result of revision of rules for inspection and maintenance.

The importance of providing improved brake equipment for the control of high-speed trains, in both service and emergency braking, has been given further attention; the Bureau has cooperated in tests to determine stopping distances from various speeds, as well as limits of braking force which can safely be applied to wheel treads, and the Bureau is also keeping in touch with experiments with brake equipment in which the braking force is not applied to wheel treads.

2. *Draft gears and couplers.*—Progress has been made in reduction of free slack in draft gears, and in elimination of obsolete types of couplers from service.

3. *Arch-bar trucks.*—The Association of American Railroads rules referred to last year, under which cars equipped with arch bar trucks were to be prohibited in interchange on and after January 1, 1938, have been revised to extend this time limit to January 1, 1939. During the year one serious accident was investigated which was caused by the failure of an arch-bar truck.

4. *Postal service cars.*—The Bureau has cooperated with the Post Office Department, the Canadian Railway Commission, the Association of American Railroads and car manufacturers in revision of specifications covering standards of arrangement, strength, and equipment of postal-service cars.

HOURS OF SERVICE

Hours of service reports were filed by 796 railroads, of which 618 reported no instances of excess service. The remaining 178 railroads reported a total of 4,532 instances of excess service, as compared with 9,300 instances reported by 207 railroads for the preceding year, a decrease of 29 railroads reporting excess service and a decrease of 4,768 instances of such service.

Five cases of violation of the hours-of-service law, comprising 27 counts, were transmitted to United States attorneys for prosecution. Cases comprising 30 counts were confessed, 5 counts dismissed, and 3 were tried, resulting in judgment for the Government. On June 30, 1938, there were pending in the district courts three cases containing nine counts.

SIGNALS, INTERLOCKING AND AUTOMATIC TRAIN CONTROL

On January 1, 1938, block signals, interlocking and automatic train control devices were in use as follows:

Block system

	Miles of road	Miles of track
Automatic	64, 197. 8	94, 883. 4
Nonautomatic	43, 810. 0	46, 040. 5
Total	108, 007. 8	140, 923. 9

Interlocking

Number of plants	4, 548

Automatic train stop, train control, and cab signal devices

	Miles of road	Miles of track	Locomotives
Intermittent	6, 440. 9	12, 039. 4	4, 885
Continuous	3, 959. 5	8, 120. 8	4, 822
Total	10, 400. 4	20, 160. 2	9, 707

Detailed information concerning these installations is contained in the annual bulletin published separately.

Under section 26 of the Interstate Commerce Act as amended (1937), carriers are not permitted to discontinue or to materially modify installations of the block-signal system, interlocking and automatic train stop, train-control and cab-signal devices without approval of the Commission. Under the procedure which has been established for administration of this provision of the law, when an application for approval of proposed discontinuance or material modification is received from a carrier a public notice is posted, and copies are sent to interested parties giving them an opportunity to so state in case they desire to be heard in reference to the proposed changes, and each application is investigated by our engineers or inspectors. In case of opposition to the proposal a hearing is held and the matter is determined by the Commission or a division thereof; in uncontested cases action is by a commissioner to whom appropriate authority has been delegated.

As pointed out in our report last year, the amended section provides that rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered, to be filed by the carriers, modified if required, and approved by the Commission, shall become obligatory upon the carriers. Under the provisions of this section, 222 carriers have filed rules, standards, and instructions which were in effect on their respective lines with re-

spect to the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by this section. These rules are being considered for the purpose of determining whether the rules as filed by the individual carriers should be approved by the Commission, or whether modifications should be required, or whether a code of rules which will be applicable to all carriers should be prepared and prescribed by the Commission.

As of June 30, 1938, 419 applications for approval of proposed modification or discontinuance of existing signal, interlocking and automatic train control installations had been filed, of which 283 were approved, 2 were disapproved, and 134 were pending.

Public hearings were held upon applications submitted as follows:

Application of the Illinois Central Railroad for authority to discontinue maintenance and operation of automatic train-stop devices installed on its Illinois division, substituting therefor automatic wayside signals of the searchlight type. This application was denied.

Application of the Illinois Central Railroad and the Alton Railroad for approval of discontinuance of interlocking at the crossing of the Illinois Central Railroad with the Alton Railroad at Mason City, Ill., substituting crossing gate therefor.

Application of the Alton Railroad and Baltimore & Ohio Railroad for approval of discontinuance of interlocking at the crossing of the Alton Railroad with the Baltimore & Ohio Railroad at Ashland, Ill., substituting crossing gate therefor.

Application of Chicago, Rock Island & Pacific Railway for approval of installation of automatic interlocking at its crossing with the Chicago, Burlington & Quincy Railroad at Ottawa, Ill., in lieu of mechanical interlocking.

Action is pending in each of the three foregoing cases.

Signal failure reports have been filed during the period from January to June, 1938, inclusive, as required by our order of November 13, 1937. The totals of these reports are as follows:

False restrictive operations	21,351
False proceed operations	144
Potential false proceed conditions	102

INVESTIGATION OF ACCIDENTS

We investigated 95 train accidents, of which 45 were collisions and 50 were derailments. The collisions resulted in the death of 63 persons and the injury of 626 persons; the derailments resulted in the death of 121 persons and the injury of 419 persons, a total of 184 killed and 1,045 injured. A detailed report concerning each accident investigated is made public when completed and summaries of these reports are published quarterly.

Among the accidents investigated were 10 involving motor vehicles, 8 of which occurred at highway crossings. Two were caused by broken rails, and one by a partly opened switch; in one instance the cause was not definitely determined. These 14 accidents, which resulted in the death of 35 persons and the injury of 154 persons have not been classified. The remainder of the accidents investigated are divided into four groups; the following table shows the group and the number of accidents in each:

Accidents investigated

Group	Number of accidents	Number of persons killed	Number of persons injured	Probably preventable by train stop or train control			Possibly preventable by block signals; preventable by train stop or train control			Not preventable by block signals, train stop, or train control		
				Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured
1. Derailments	38	96	284	0	0	0	4	5	24	33	91	260
2. Collisions in automatic-signal territory	19	21	431	7	6	289	0	0	0	13	15	142
3. Collisions in nonautomatic-signal territory	4	9	99	1	0	2	3	4	87	1	0	3
4. Collisions in time-table and train-order territory and yards	20	23	77	0	0	0	13	24	69	6	4	15
Total for year ended June 30, 1938	81	149	891	8	6	291	20	33	180	53	110	420
Totals for years ended June 30—												
1937	87	109	663	12	15	68	27	48	301	48	46	294
1936	70	101	627	5	4	260	13	28	101	52	69	266
1935	58	80	855	7	7	221	12	15	126	39	58	508
1934	73	123	726	3	12	255	26	17	118	44	94	353
1933	50	58	337	5	5	39	16	24	104	29	29	194
1932	52	74	517	7	7	35	13	23	172	32	44	310
1931	58	83	682	4	1	170	19	29	159	35	53	353
1930	101	128	1,406	8	8	64	38	50	522	55	69	820
1929	90	132	1,171	12	15	116	37	54	572	41	63	483
1928	72	126	896	11	18	74	21	42	472	40	66	350

The number of preventable accidents as indicated by this table, and the number of persons killed and persons injured in such preventable accidents, represent 29.5, 21.2, and 45.0 percent, respectively, of the total number of accidents investigated, persons killed and persons injured.

GRADE CROSSINGS—RAILWAY WITH HIGHWAY

During the calendar year 1937, there were 4,489 accidents at highway grade crossings, which resulted in the death of 1,875 persons and the injury of 5,136. Automobiles were involved in 4,007 of these accidents, 1,607 persons being killed and 4,904 injured. There were

65 derailments of trains as a result of collisions between trains and automobiles, which caused the death of 40 persons and the injury of 66. Of the total casualties resulting from grade-crossing accidents, 7 killed and 37 injured were railroad passengers, employees, and persons carried under contract. Information concerning accidents of this character, together with comparable statistics for the 2 preceeding years, and the number of crossings, railway with highway, is shown in the following tables:

Accidents at highway grade crossings, years ended December 31, 1935, 1936, and 1937

	1935			1936			1937		
	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured
Accidents at highway grade crossings	3,933	1,680	4,658	4,277	1,786	4,930	4,489	1,875	5,136
Accidents at highway grade crossings involving automobiles	3,504	1,442	4,434	3,780	1,519	4,662	4,007	1,607	4,904
Derailments of trains as a result of collisions between trains and automobiles	72	48	128	74	46	63	65	40	66
Miscellaneous train accidents as a result of collisions between trains and automobiles	106	76	74	132	63	81	153	85	68
Automobiles registered	26,221,052			28,221,291			29,705,220		
Railroad casualties:									
Passengers		0	54		0	24		0	235
Employees		20	73		19	69		23	85
Persons carried under contract		0	9		0	1		0	1
Total		20	136		19	94		23	109

Crossings, railway and highway

Years ended Dec. 31—	Number at end of year	Number actually added and eliminated during the year		Net increase	Net decrease
		Added	Eliminated		
1937	232,322	895	1,843		948
1936	232,902	491	2,134		1,643
1935	234,231	887	2,071		1,184
1934	234,820	999	2,109		1,110
1933	235,827	788	2,029		1,241
1932	237,035	815	1,447		632
1931	238,017	1,265	1,664		399
1930	240,673	1,848	1,984		136
1929	242,809	1,945	1,397	548	
1928	240,089	2,068	1,204	864	

Progress has continued in the elimination of railroad and highway crossings at grade. As shown by reports of the carriers, during the calendar year 1937, 1,843 grade crossings were eliminated; however, in the same period 895 grade crossings were added, the net reduction

being 948. The total number of crossings of this character at the end of the year was 232,322.

EXAMINATION OF DEVICES

Plans of seven devices designed to promote the safety of railway operation were examined by our engineers and reports thereon transmitted to the proprietors.

MEDALS OF HONOR

No applications for medals of honor under the act of February 23, 1905, have been filed during the year.

Since the passage of this act 69 applications have been filed, of which 44 have been approved and 25 denied.

BUREAU OF SERVICE

During the past year it was found necessary to exercise the emergency powers conferred upon us by the car service provisions of the act in two instances: Service Order No. 63, issued July 18, 1938, because of an emergency occasioned by threatened and probable discontinuance of operation under trackage rights by the Gulf, Mobile & Northern R. R. Co. over the line of the Illinois Central R. R. Co. between Bemis, Tenn., and Paducah, Ky., developing from a controversy relating to the terms and conditions of the trackage contract and resulting court decree. This service order directed the Gulf, Mobile & Northern R. R. Co. and other carriers involved to divert to open routes through Jackson, Tenn., traffic which the Gulf, Mobile & Northern R. R. Co. otherwise would have handled through the Paducah gateway and at the rates applicable through that gateway. The order was vacated on September 15, 1938, following the taking effect of a tariff which accomplished the purpose for which the service order was issued. Service Order No. 64 was issued September 21, 1938, because of the interruption of traffic by reason of storm, tidal wave, and flood conditions in certain New England States and directed carriers by railroad therein to transport traffic by routes most available to expedite its movement.

During the year representatives of the Bureau conducted hearings, completed reports, or otherwise participated in the disposition of 11 formal cases relating to car service, operating practices, mechanical, and safety matters.

Numerous informal matters and complaints coming within the scope of the term "car service" as defined in section 1, paragraphs (10) to (17) of the act, brought to our attention directly or through our service agents, were disposed of as each case required. These included the furnishing of suitable cars within reasonable time, the

prompt movement of freight, delays in or at terminals, misuse of cars, the interchange of equipment, assessment of demurrage, and disputes of various kinds. Many of these cases were handled by our service agents in the field directly with the parties, and thus prevented from developing into formal complaints.

Various local embargoes were placed by the carriers from time to time as floods, strikes, and seasonal conditions made these necessary. Embargoes were also placed at Atlantic ports, at all South Atlantic and Gulf ports, and at some Pacific ports in the late fall of 1937 as a result of an accumulation of scrap metal and grain for export and for coastal and intercoastal movements.

At the request of shippers, concurred in by carriers, the Bureau joined with the Southern Weighing & Inspection Bureau, Western Weighing & Inspection Bureau, and the Transcontinental Freight Bureau, Weighing & Inspection Department, in making test weights of fruit and vegetable shipments, for the purpose of establishing correct shipping weights. The bureau also cooperated, during the period covered by this report with our Bureaus of Inquiry, Formal Cases, Finance, Traffic, Accounts, Statistics, and Safety in collecting and furnishing information and data relative to operating practices, equipment, and car service involved in matters coming within the scope of the bureaus named.

Demurrage disputes to the number of more than 300 were submitted by shippers for informal adjustment during the period and, thus handled, were in all but a negligible number of instances, accepted as satisfactory by the parties, the saving in expense to all concerned as against formal procedure being substantial.

The board of directors of the Association of American Railroads has now suspended indefinitely the operation of the average per diem plan for box cars which was originally suspended for 6 months effective July 1, 1937. (See annual report for 1937.) This plan, applicable to car hire settlements, was put into effect May 1, 1935, for the purpose of effecting savings by reducing empty car mileage and switching. However, the carriers were not a unit as to the merits of the plan, and it is reported that those in western territory opposed it because their best box cars manifested a tendency to remain in the East, without adequate compensation being received for their use.

Car shortages of a minor nature, which developed in certain sections of the country, were promptly reported by our service agents, and successfully handled with the affected carriers.

The carriers and the Association of American Railroads again deserve commendation for the efficient handling of the 1938–39 wheat crop, which was the largest, except for one, in the past 15 years, yet was moved without complaint. Our service agents were at all times

in close touch with every important phase of the situation, including condition, supply, and movement of cars for grain loading.

Between November 1, 1937, and October 31, 1938, surplus box cars decreased from 75,052 to 68,148 cars, a difference of 6,904 cars or 10.1 percent. Surplus gondola, coal, and coke cars decreased from 47,497 to 42,830 cars, a difference of 4,667 cars or 10.9 percent. For all freight cars the surplus decreased from 156,853 cars to 144,278 cars, a difference of 12,575 cars, or 8.7 percent. During the same period freight-car ownership declined from 1,732,265 to 1,689,782, a difference of 42,483 cars or 2.5 percent. During that period 25,113 new units of railroad-owned freight cars were added.

Matters pertaining to regulations for the transportation of explosives and other dangerous articles demanded attention as follows: Five orders were approved covering applications pending at our last report. Provision was made for the transportation of liquefied carbon dioxide and compressed oxygen and nitrogen gases in tank cars of certain specifications by including them in the list of commodities for which such movement is permissible; reduction in shell thickness of metal barrels and drums of special steel construction and changes in closures for these containers; modified period of tests for tank cars and safety valves; metal and rubber drums for acids; modified closures for fiber boxes; aluminum tank cars for gasoline; aluminum-lined steel drums for nitric acid; and fusion-welded nickel-clad tank cars for caustic soda.

In addition, 6 orders were issued upon applications receiving favorable action covering the following: The number of fusion-welded tank cars approved for test purposes was increased to a total of 527 cars for transportation of hydrochloric acid, petroleum products, nitric acid, anhydrous ammonia, caustic soda, and butyraldehyde; modified packing for dangerous explosives, inflammable solids and oxidizing materials, acids, and poisonous articles; reduction in explosive content of toy caps and safer packing; provision for movement of poisonous materials in campaign against rodents conducted by the Department of Agriculture.

Plans were continued in cooperation with the Bureau of Motor Carriers and Department of Commerce in the formulation of modified regulations for transportation of dangerous articles by rail, water, and highway. Tentative drafts of requirements have been prepared and hearings on highway regulations have been set. Rail and water sections are about ready for hearings or final conferences, so that all revised requirements may have the same effective date.

Our field representatives continue to find irregularities in connection with observance of the regulations such as the following: Failure to observe the requirement for placement of cars of explosives

and inflammable liquids in trains caused the issuance of general notice to interested parties; failure to notify train crews of position of cars of explosives in trains; errors in the placarding of cars; irregular loading and unloading practices for gasoline; and failure of shippers to properly certify packages for acceptance by carriers for transportation.

Further matters include indictment obtained against certain persons for unlawful transportation of dynamite, penalty of 1 year assessed; propriety of making repairs to fusion-welded tank cars under test; defect reported in fusion-welded car authorized for use for anhydrous ammonia made the subject of investigation and analysis to determine the cause and possible effect on other outstanding cars and applications for additional cars; copy of current regulations prepared for use in Federal Register for public information; modification of regulation specifying moisture content of fish scrap; matter of alloy steel for use in cylinders for compressed gases; incorporation in regulations for information of shippers of revised list of regulated articles to include those hazardous in movement by water only; cherry wood proposed for use in wooden barrels; modified pressures in cylinders for carbon dioxide shipments; revised requirements for openings in barrels and drums used for smoke-producing compounds; revision of regulations for safe transportation of matches to include match strips not in books; publication of pending revised regulations in tariff form for information of public; application for permission to use stainless steel sampler for transportation of oil-well samples to laboratories for analysis; construction of nickel drums for pure alcohol; additional container type for use for chlorine gas; transportation of freon as a refrigerant; applications for a total of 50 fusion-welded tank cars for tests in transporting petroleum products, and uncompleted applications for 10 fusion-welded test tank cars for petroleum products and 15 tank cars constructed of fusion-welded aluminum for transporting various inflammable liquids.

BUREAU OF STATISTICS

In the past year a beginning was made in the collection of statistics of motor carriers subject to part II of the act by our adoption on August 1, 1938, of forms for quarterly reports of revenues, expenses, and statistics from motor carriers of property and motor carriers of passengers, the first report being for the quarter ending September 30, 1938. A brief monthly form, confined to two items, passenger revenue and number of passengers, was also prescribed on the same date for motor carriers of passengers, the first report to be for the month of August 1938. Both the quarterly and monthly reports are required

only from the class I carriers, which are those having annual operating revenues above $100,000.

The list of publications given in our last annual report as regularly prepared by this Bureau was modified in 1938 by discontinuing one entitled Operating Revenues and Operating Expenses by Class of Service, the contents of which were in part transferred to the Preliminary Abstract of Statistics of Common Carriers and in part to the Comparative Statement of Railway Operating Statistics, which was thoroughly revised to afford in convenient form a comparison of the operating characteristics and certain unit costs of the leading individual railways. A brief quarterly statement, segregating coach from parlor and sleeping car traffic, was added during the year.

On August 10, 1938, the Association of American Railways submitted a plan for a simplification of our statistical requirements, the most important changes suggested for this Bureau being the omission of the separation of freight and passenger expenses, the elimination of certain annual report schedules, and the consolidation of the various reports of operating statistics into a single and less complete monthly report. As the separation of expenses is a part of any system of cost finding, a decision on this point was deferred pending the outcome of our investigation of this subject in *Ex parte 122*, entitled "Cost Finding in Transportation Service," referred to below. The other changes in the direction of simplification are under consideration.

Two additional carriers filed system reports for 1937, the Union Pacific and the Kansas City Southern, and one, the New York, Susquehanna and Western, discontinued this form owing to operation by the courts. This brought the total number of annual reports received from steam railways on a consolidated system basis to 10. The further extension of system reports will continue to receive attention. To ascertain the exact extent to which steam railways are using system consolidated statements for any purpose, Statistical Series Circular No. 24 was sent to all class I steam railways on October 27, 1937. The replies show that the majority of the carriers prepare no such statements for any purpose except income-tax reports, but that 45 in 1936 or 1937 prepared some form of consolidated statement other than for taxes. Of these only 29 prepared consolidated balance sheets covering 2 or more corporations. Not all of these prepared consolidated income accounts. In addition to the financial statements the consolidated returns sometimes extend to such matters as carloadings, statistics of employees, expenditures for additions and betterments, traffic statistics, fuel, stocks, and many others.

Reference was made in our last report to the need for a revision of commodity statistics. As a result of the study in the methods employed, tentative revised instructions to govern the reporting of sta-

tistics of cars, tons, and revenue for individual commodities have been drafted. The proposed changes, not yet adopted, are designed to clarify the meaning of the figures and improve their usefulness.

During the past year this Bureau has participated in rate cases before the Commission by analyzing carrier testimony and exhibits relating to the cost of transportation service, or by preparing and introducing Commission exhibits. In two cases, Docket No. 27565, *Petroleum and Petroleum Products from California to Arizona*, and Docket No. 27571, *Naval Stores from Mississippi to Gulf Ports*, the Bureau prepared for carrier use schedules designed to develop from the basic accounting records of rail lines and highway motortruck lines comparative unit transportation costs.

By order dated November 8, 1937, entitled *Ex parte 122*, the Commission instituted a proceeding of investigation and inquiry on its own motion into and concerning cost finding in railway, highway, waterway, and pipe line transportation service, with a view to determining whether the Commission should require all or any common and contract carriers subject to part I or part II of the Interstate Commerce Act to file special or annual reports for cost-finding purposes and to prescribe such forms of accounts, records, or memoranda to be kept by all or any of said carriers as will be necessary or desirable in connection therewith. There is an important and growing demand for comparable costs of the railways and other means of transport, such as trucks, pipe lines, and water lines, which must be met by improving the statistical methods for obtaining such information.

Among the special studies completed during the year are the following:

(1) *Territorial variation in the cost of carload freight service.*—Statement No. 3812, brings up to 1936 and amplifies a similar study published in 1930 and shows the relative cost of transporting a given amount of freight a given distance in the various territories compared with the average cost for all roads. Certain limitations must be observed in applying the results to particular problems since variations in the load per car of a given commodity group, in the length of haul, and the frequency of interchange within a given haul affect the comparison of costs. The study shows that some regions have lower terminal but higher line haul costs than are found in other regions. The combination of these two factors together with the cost of interchange gives the total cost.

(2) *Free transportation on class I railways.*—Statement No. 3815, shows that 2,650,019 free tickets or passes were issued in 1937, resulting in 6,541,945 free trips, with an estimated value of regular fares of $24,844,134. These figures do not cover the free travel by the employees of the railroad issuing the passes, but they do cover the

employees of other than the issuing road and their families, as well as other persons. Persons who are not railroad employees or members of employees' families, received only 8.7 percent of the estimated value above given.

(3) *Railway labor cost per unit of traffic, 1913–37.*—Statement No. 3839, is a review of various averages that show the labor cost per unit of railway service, such as the car-mile and the ton-mile. It was found that the pay roll cost per car-mile in 1937 was 6.72 cents, a slightly higher average than for any of the years 1933–36, but lower than for the years 1918–32. This cost was 83 percent of that of 1926. The pay roll expense per revenue ton-mile declined from 4.25 mills for 1926 to 3.57 mills for 1937, the latter being 84 percent of the former.

During the 12 months ended September 30, 1938, steam railway companies submitted 37 reports relative to the purchase of rails, fuel, and other materials, as well as securities, under competitive bids as required by the Commission's regulations under the Clayton Anti-trust Act. These reports are on file in this Bureau. The regulations were made applicable to motor carriers on and after January 29, 1938, by the Commission's order of that date, but reports of this nature have not yet been filed.

The number of annual reports filed in this Bureau for the year 1937 was 1,424 or 32 less than the number filed in 1936. No motor-carrier reports are included in these totals.

In the year 1937 there was a further decline in steam railway mileage, the net decrease having been 1,565 miles, but this decline was somewhat less than for each of the preceding 4 years. The retirement of old locomotives and cars continued, but the net decline in number was markedly less than in the other recent years. Thus, the number of locomotives was less by 454 in 1937 than in 1936, compared with declines of 1,532 in 1936 from the preceding year, 1,882 in 1935, and 2,805 in 1934. The total decline in 10 years, 1927–37, was 17,793 locomotives, or 27.23 percent of the number available in 1927. Between the same years the average tractive effort increased from 42,798 pounds to 49,412 pounds, or 15.45 percent.

There was a decline in 1937 of $266,390,000 in the reported capital of steam railway companies actually outstanding, chiefly explained by the elimination of intercorporate holdings in the statistics resulting from the extension of the policy of accepting system reports. The total capital actually outstanding on December 31, 1937, was $21,694,645,000, covering both solvent and insolvent companies, except for debt matured and unpaid, which for class I railways amounted to $572,015,000. If all the inter-railway holdings are excluded, the total capital falls to $18,319,002,557. This may be compared with a value of $20,340,000,000, found by us in a recent rate proceeding

as of January 1, 1937 (226 I. C. C. 41, 163), both totals excluding switching and terminal companies. If switching and terminal companies are included the net capitalization is $18,942,650,037 and the value found by the Commission, $21,060,000,000. The capitalization covers all the property and securities owned by the carriers. Included in that property are miscellaneous noncarrier items, and the railways also have investments in securities of noncarrier companies. In contrast, the value of $21,060,000,000 given above refers only to property used in transportation. Of the total capital given above, 54.8 percent was debt, compared with 56.3 percent 10 years earlier, the decrease being largely accounted for by the exclusion of the debt which has matured and remains unpaid. In 1937, only 39.64 percent of the stock paid dividends, the average rate on the dividend paying stock having been 5.85 percent. If spread over all stock, the average dividend rate would be 2.32 percent.

In the calendar year 1937, 5,350 persons were reported killed in railway accidents, a decrease of 0.89 percent from 1936, but an increase over the total for any other year since 1930. However, when the number of train-miles each year is taken into account, the fatality record for 1937 was more favorable than for any other year since 1932. Of all the fatalities in 1937, nearly one-half were to trespassers, and 35 percent occurred at highway grade crossings, these two groups thus accounting for over 8/10 of all railway fatalities. For employees, the corresponding percentage was 10 and for passengers less than 1 percent. The number of trespassers killed was 2,569 for 1937, which was smaller than the total for any other year since 1933, when 2,826 such deaths were reported.

The financial results of operations and changes in traffic and employment have been reviewed in a previous section of this report. A summary of selected railway statistics will be found in appendix C.

BUREAU OF TRAFFIC

The functions of the Bureau of Traffic have been described in our previous reports. (See Forty-fifth Annual Report, pp. 63–64.)

Data covering particular activities of subdivisions of this Bureau during the year are shown below.

SECTION OF TARIFFS

There were filed 124,674 tariff publications containing changes in freight, express, and pipe-line rates, passenger fares, and freight classification ratings. In addition thereto, 1,132 publications were received for filing, but were rejected for failure to give the notice required by the statute. Powers of attorney and certificates of concurrence filed aggregated 23,755. Applications received seeking spe-

cial permission to establish rates or fares on less-than-statutory notice or waiver of certain of our tariff-publishing rules numbered 7,899. Specific orders were entered granting 7,352 and denying 535 of these applications. The remainder were disposed of otherwise. Correspondence relating to tariff construction in accordance with our rules and regulations promulgated under section 6 of the act consisted of 28,126 letters received and 22,523 letters written. For our own use, as well as for the use of other branches of the Government and of shippers, 3,839 rate memoranda were prepared. Our duplicate tariff file has been maintained for the use of the public.

SUSPENSIONS

Rate adjustments were protested and suspensions asked in 442 instances, an increase of 14 over last year. Of these protested adjustments, 99 represented reductions, 315 represented increases, 22 represented both increases and reductions, and 6 neither increases nor reductions. They covered not only a large number of rate schedules but many thousands of rates.

The following action was taken on the requests for suspension:

Suspended (including supplemental orders)	133
Refused to suspend	213
Schedules rejected, requests for suspension withdrawn, or protested schedules withdrawn	96
Total	442
Proceedings pending from previous year	68
New proceedings on suspension docket	124
Total	192

Of this number, 126 were disposed of, a decrease of 5 under last year, 61 after formal hearing and report, and 65 through informal proceedings without report.

THE FOURTH SECTION

The number of applications was 413. The number of orders entered in response to applications was 452, of which 39 were denial orders, 212 were orders granting continuing relief, and 201 were orders authorizing temporary relief. One hundred and twenty-five formal reports were issued.

Applications withdrawn, wholly or in part, after correspondence with carriers, numbered 29; and 107 applications or portions thereof were heard in fourth-section proceedings.

The number of petitions for modification of orders was 362, of which 331 were granted, 16 were denied, 4 were withdrawn, and 11 are still pending.

The only applications filed under the 1910 amendment to the fourth section which have not been disposed of involve a jurisdictional question with respect to international rates.

EXPRESS

Of the tariff publications filed, 1,659 represent changes in express rates and classification ratings. Of the applications received seeking special permission to establish rates on less-than-statutory notice or waiver of certain of our tariff-publishing rules, 47 related to express rates.

RELEASED RATES

There were filed 13 applications for authority, under section 20 (11) of the act, to establish rates dependent upon declared or agreed values. Of these, 12 were granted and 1 is pending.

BUREAU OF VALUATION

The activities of the Bureau of Valuation during the past year may be divided into five phases: (1) Reports and exhibits used in rate cases; (2) reports used in reorganization cases; (3) valuation of properties of carriers by pipe line; (4) bringing the inventories and records to date and—to the extent possible under reduced appropriations—keeping them current in compliance with requirements of section 19a, paragraph (f) of the act as amended June 16, 1933; and (5) work done for and information furnished to various Federal agencies, State regulatory commissions, county, and municipal authorities and the public.

Reports and exhibits.—On call of the Commission the Bureau presented in *Ex parte 123, Fifteen Percent case, 1937–1938*, comprehensive exhibits and analyses with respect to the valuation elements of all the railroads in the United States. These exhibits cover the original cost, original cost less depreciation, cost of reproduction new, cost of reproduction less depreciation, present value of lands and rights, and working capital. The data were shown in totals for the country and then by recognized rate territories and groups for each class of carriers and for each class I carrier separately. The grand totals for all carriers are as follows:

Original cost to date, except lands and rights	$23,019,167,496
Original cost less depreciation	16,590,227,439
Cost of reproduction new, except lands and rights	26,238,856,914
Cost of reproduction less depreciation	18,906,861,318
Present value of lands and rights	2,606,869,985
Working capital including materials and supplies	300,193,743

The Commission found the approximate aggregate value for rate-making purposes to be $21,060,000,000 as of January 1. 1937. The

Bureau also presented and introduced in the case an exhibit showing the trend of material and construction prices, past and present, and accompanied this with a full statement of its methods used in ascertaining the various elements of value. On these exhibits the Commission was able to analyze the rates of return on value for rate-making purposes, of the property devoted to public common-carrier service in all recognized rate districts and groups for various actual and constructive calendar years. In the reopened Docket Ex parte No. 115, *General Commodity Rate Increases, 1937*, elsewhere discussed herein, the same valuation data were presented. A recheck disclosed a duplication of certain figures which necessitated a reduction of $40,000,000 in the final values above referred to, making the aggregate value $21,020,000,000 as of January 1, 1937.

Similar exhibits were called for in Ex Parte No. 125 on the application of the Pullman Co. for increases in rates.

The calls on the Bureau have broadened. The latest developments lie in valuation demands in connection with the Commission's effort to ascertain costs of service. Among recent requests have been calls for valuations, surveys, and exhibits in the hearings in I. & S. Docket 4418, *Des Moines Union and Des Moines Terminal*—switching charges at Des Moines; *Sioux City Terminal*, I. & S. Docket 4419—terminal switching charges at Sioux City; *Santa Fe and Southern Pacific*, Docket 27565—a proceeding involving rates for moving petroleum from California to Arizona; *New Orleans Public Belt*, I. & S. Docket 4366—a proceeding initiated by the New Orleans Public Belt, a municipally owned public carrier, to increase its rates for interline, interterminal and intraterminal switching services, and a proposal by its trunk-line connections to limit their absorptions of interline switching charges on ship-side traffic; Docket 27669—litigation over rates on bituminous coal from the Pocahontas fields to Hampton Roads for shipment beyond.

Reports have been prepared bringing to date valuation exhibits in the *Southwestern Divisions Case*, Docket 25692—a proceeding for the adjustment of divisions of through rates between official classification and southwestern group carriers. Valuation data have also been supplied in connection with Docket 27365 dealing with leasing of facilities to freight-forwarding companies. As the year of reporting closes the Bureau is making an appraisal of elements of value of the Inland Waterways Corporation's transportation system on the Mississippi, Warrior, Illinois, and Missouri rivers for introduction in Docket 26712, a proceeding for determination of joint rail and barge rates.

Reorganization reports.—Previous annual reports have indicated the scope of the bureau's participation under paragraph 11, in reorganization cases brought under section 77 of the Bankruptcy Act.

The Bureau has continued responding to calls for valuation data and exhibits on the condition of the properties for such reorganization proceedings. During the year it has prepared exhibits covering original cost, cost of reproduction new, cost of reproduction less depreciation, present value of lands and rights, and working capital, upon the New York, Susquehanna & Western; New York, Ontario & Western; St. Louis-San Francisco; and the Oregon-Pacific & Eastern. The reports covered 5,919 miles of first main track and a total of 8,438 miles of all tracks, raising the total thus far of reports for such proceedings to 58,769 miles of first main and 87,193 miles of all tracks. The reports called for include break-down of the properties by various mortgage and lien obligations; also analyses of capital assets and liabilities, including reports of corporate and financial history, development of fixed physical property, analysis of capital stock and long-term debt outstanding; and investment in carrier and noncarrier securities.

Valuation of pipe lines.—The work of valuing the property of the carriers by pipe lines was continued insofar as more pressing work would permit. No separate appropriation has been made for this work. During the year underlying engineering, accounting, and land reports were served upon 21 companies; tentative valuations were served on 25 companies and final valuations were adopted in 15 cases. Out of the total of 53 companies, owning 94,000 miles of pipe lines to be valued, 31 companies, owning 55,555 miles of pipe line, have been served with tentative valuations. Of the 31 cases, final valuations have been adopted in 15, covering 25,040 miles of pipe line. Reports showing changes in the properties since date of basic inventories are being filed by the carriers and the Bureau is checking and policing these reports to the extent possible under present appropriations.

Keeping valuation data current.—Paragraph (f) of section 19a (b), fifth, lays on the Commission a mandate to keep itself informed of all new construction, extensions, improvements, retirements, or other changes in the condition, quantity, use, and classification of all common carriers as to which original valuations have been made, and the cost of all additions and betterments thereto, and of all changes in the investments therein. It provides that the Commission may keep itself informed of current changes in costs and values of railroads in order that it may have available at all times the information deemed by it to be necessary to enable it to revise and correct its previous inventories, classifications, and values. It further provides that when deemed necessary the Commission may thus revise, correct, and supplement any of its inventories and valuations. The carriers are required annually to report additions and betterments and these,

within the limitations referred to, are being policed and checked, and inventories corrected and put into condition for use in conformity with the requirement that the Commission have available "at all times" such information and data, and thus be ready on short notice to respond to calls. The reductions in personnel during the last few years have reduced the staff to a point where the Bureau finds itself unable to keep abreast of the changes in the property. Each year approximately 250,000 "mile years" accumulate, the 250,000 miles representing, in round terms, the main-line mileage of the country, the total of all tracks being approximately 400,000 miles. In the first quarter of the present fiscal period, which began July 1, the staff has only been able to do the field checking and policing necessary to maintain the integrity of the records on 41,747 miles, or at the rate of about 170,000 to 180,000 miles per year, leaving an accumulating deficit of some 70,000 or 80,000 mile years. The Commission has called attention to the fact that the danger point had been reached in currently maintaining the records which had been brought to a point of approximate currency.

Work done for other Government agencies.—During the year the following assignments were completed for other Federal agencies under the broad provisions of the Economy Act:

Furnished witnesses and other assistants to the Bureau of Internal Revenue in the preparation of a case involving claims for the cost of transporting materials used in construction by the Southern Railway and a claim for a deduction for depreciation on an elevator by the Chicago & North Western. Prepared appraisal of proposed parcel-post site in San Francisco for the Treasury Department. Prepared appraisal of dock property owned by the United States Maritime Commission in Hoboken, N. J., for that commission. Engineering inspection and report for the Federal Power Commission upon relocation of railroad tracks in connection with the construction of the Conowingo Dam. Furnished data to the War Department with respect to railroads in the vicinity of Mitchell Field, N. Y. The Bureau is called on to advise and furnish maps to governmental bodies and agencies dealing with soil conservation and relocations of railroads in river, drainage, and dam construction projects.

A large number of inquiries for valuation data and information were received from railroads, State regulatory and tax commissions, local authorities in counties and municipalities, and various organizations and individuals.

The use of our records by Federal agencies and the public in general has been more extensive during the past year than usual. The records of the Bureau which are open to public inspection and use have been consulted constantly by the public and the carriers.

Staff.—The appropriation for the Bureau was again cut at the beginning of the present fiscal year and it was necessary to reduce personnel to a point below what is considered sufficient to carry on the work. 212 employees were on the pay roll on November 1, 1937, and 188 as of November 1, 1938.

ABANDONED MILEAGE

During the year ended October 31, 1938, 127 applications were filed for permission to abandon 2,470.615 miles of railroad lines or the operation thereof. The Commission granted 123 applications, of which 51 were contested and 72 uncontested cases, involving 69.13 miles of main line and 1,050.317 miles of branch line, of class I carriers, together with 894.608 miles of so-called short lines, of which 528.412 miles constituted the entire lines of the applicants and 366.196 miles portions of such lines. Information is not available as to the total number of miles which were actually abandoned under the permissions granted. In proceedings in which certificates were issued, covering 1,654.136 miles of road, the estimate of average annual losses from continued operation or of future annual savings resulting from abandonment amounted to $893,777. In proceedings covering the remaining 264.079 miles, estimates of losses or savings are not given. The figures for annual losses are based largely on the results of operation in recent years. Mileage and possible losses or savings in trackage-rights abandonments are not included.

It has been shown in certain cases that the necessary cost of rehabilitation or of bringing up deferred maintenance of tracks which were permitted to be abandoned, aggregating about 856 miles, would require an expenditure estimated at $3,227,666. Since this amount would necessarily be expended in order to continue operation, abandonment would result in a saving which to that extent can, with considerable accuracy, be estimated in advance.

Corresponding data are given in our reports beginning with the report for 1934.

Probably the least important item in saving resulting from abandonment is the salvage realized. This is seldom emphasized because the value cannot be ascertained until dismantlement has taken place and the disposition of the salvaged material has been made.

The reasons generally advanced to warrant abandonment were insufficient traffic, resulting from various causes, including failure of expected traffic to develop, exhaustion of sources of traffic from forests and mines, and losses of traffic to competing lines of railroad, or other forms of transportation. In a few cases operation of lines had been discontinued before applications for permission to abandon were presented, and in some, applications were granted only in part.

The actual monetary savings resulting from abandonment of mileage is generally an indeterminate amount, and, while we are satisfied that the abandonments permitted were in the interest of economy, the saving cannot be stated in exact figures. In nearly all cases abandonment results in the loss of traffic, but in many cases some portion of the traffic formerly handled on the lines proposed to be abandoned will continue to reach the applicants' railroads by highway.

WORK OF LEGISLATIVE COMMITTEE

During the second and third sessions of the Seventy-fifth Congress from November 15, 1937, to June 16, 1938, our legislative committee submitted to Congress 19 reports on bills or resolutions. These reports were directed to the chairman of the Senate or House committee from which came the request for the report and contained the legislative committee's criticisms, suggestions, and recommendations. The special report which we made to Congress on amendments to the Motor Carrier Act, 1935, is described elsewhere herein. The chairman of the legislative committee was called to appear and testify before the Senate Committee on Interstate Commerce on a bill for the amendment of the fourth section of the Interstate Commerce Act and on the amendments of the Motor Carrier Act which we had recommended, and before the House Committee on Interstate and Foreign Commerce on the latter amendments and on a bill to remove existing reductions in compensation for transportation of Government property and troops incident to railroad land grants.

LEGISLATIVE RECOMMENDATIONS

In the opening chapter of this report we discussed at some length the serious financial plight in which the railroads of the country, and indeed most of the carriers of other descriptions, now find themselves. No doubt various proposals for possible remedial legislation will be presented to the Congress at the coming session, and opportunity will be afforded for thorough consideration of the general subject in that connection. We shall not at this time offer specific recommendations with respect to legislation of this character.

With respect to other matters, we submit the following recommendations:

1. We recommend that noncarrier railroad subsidiaries be brought within our jurisdiction, at least as to their accounting and the issuance of securities, and that restrictions be imposed on the expenditure of carrier funds, incurring obligations, or acquiring property by a carrier or its subsidiaries, except for the operation or legitimate improvement or development of its property. The reasons for this recommendation were stated in our report for 1937 under the heading

"Investigation of The New York, New Haven & Hartford Railroad Co." This is a subject which may appropriately be considered in connection with such recommendations for legislation as may result from the investigation of railroad financial practices which has been conducted by the Senate Committee on Interstate Commerce. Because of the intensive consideration which is being given in that investigation to the subject of holding companies used for the purpose of controlling railroad companies, we refrain at present from making any recommendations bearing on the subject, although it has been dealt with in several of our annual reports in the past.

2. We recommend that sections 15 (1) and (3) of part I of the Interstate Commerce Act be amended to enable us to prescribe minimum as well as maximum joint rail-water rates. The reasons for this recommendation were stated in our report for 1937 under the heading "Minimum Rail-Water Rates" and more fully stated under the same heading in our report for 1935.

3. We recommend that section 15 (4) of part I of the Interstate Commerce Act be amended so as to enable us to establish through railroad routes where deemed necessary in the public interest regardless of the "short-hauling" of any carrier. The reasons for this recommendation were given in the report of the Federal Coordinator of Transportation on "Regulation of Transportation Agencies" (Senate Document No. 152, 73d Congress, 2d Session) at pp. 92-94.

4. We recommend that Congress legislate to cover completely the standard time zone field. The reasons for this investigation are stated elsewhere in this report under the heading "Standard Time-Zone Investigation" and were more fully stated in our report for 1936.

5. We recommend that the first sentence of paragraph (1) of section 20 of part I of the Interstate Commerce Act be amended to read:

and to require from such carriers *and from such owners* specific *and correct* answers to all questions upon which the Commission may need information.

that the last part of the first sentence in paragraph (2) be amended to read:

and if any carrier, person, or corporation subject to the provisions of this part * * * shall fail to make specific *and correct* answers to any questions authorized by the provisions of this section * * * etc.

and that paragraph (7) be amended by inserting at the end thereof the following sentence:

As used in this paragraph, the word "kept" shall be construed to mean made, prepared, or compiled, as well as retained; and the words "accounts, records, or memoranda" shall be construed to include all reports, and copies thereof, made, prepared, compiled, or retained by carriers subject to this part pursuant to orders of the Commission made under any of the provisions of this part.

The reasons for this recommendation were stated in our report for 1937 under the heading "Proposed Amendment of Section 20 of the Act."

6. We recommend that provision of law be made to enable us to impose a reasonable fee for admission to practice before the Commission. The reasons for this recommendation are elsewhere stated in this report under the heading "Admissions to Practice."

7. We recommend that provision of law be made so that members of State regulatory bodies, when participating cooperatively with this Commission in proceedings under part I of the Interstate Commerce Act, shall receive such allowances for travel and subsistence expenses as the Commission shall approve, as is now provided with respect to similar participation in proceedings under part II by section 205 (c) thereof.

Walter M. W. Splawn, *Chairman.*
Balthasar H. Meyer.
Clyde B. Aitchison.
Joseph B. Eastman.
Frank McManamy.
Claude R. Porter.
William E. Lee.
Charles D. Mahaffie.
Carroll Miller.
Marion M. Caskie.
John L. Rogers.

APPENDIX A

SUMMARY OF INDICTMENTS RETURNED AND INFORMATIONS FILED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1937, AND OCTOBER 31, 1938, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, AND THE ELKINS ACT

United States *v.* J. C. Allen, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 5 counts.

United States *v.* J. C. Allen, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 10 counts.

United States *v.* Armour & Company, northern district of Texas. May 24, 1938, indictment charging acceptance of concessions obtained through false billing; 30 counts.

United States *v.* Atlantic Coast Line Railroad Company, eastern district of North Carolina. September 26, 1938, indictment charging granting concessions through payment of unauthorized delivery allowances; 10 counts.

United States *v.* Fred E. Atlas, district of New Jersey. December 3, 1937, indictment charging acceptance of concessions consisting of unauthorized drayage allowances; 15 counts.

United States *v.* J. Frank Bailey, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 5 counts.

United States *v.* Berkeley Granite Corporation, northern district of Georgia. March 15, 1938, indictment charging acceptance of concessions obtained by means of false billing; 8 counts.

United States *v.* John Bernardin, eastern district of South Carolina. March 21, 1938, information charging acceptance of concession obtained by device of false billing; 1 count.

United States *v.* John M. Bernasconi, eastern district of South Carolina. March 21, 1938, information charging acceptance of concession obtained by device of false billing; 1 count.

United States *v.* A. M. Boone, western district of Tennessee. October 4, 1938, indictment charging receiving concessions through manipulation of transit privilege on grain; 10 counts.

United States *v.* Peter A. Capodilupo and Clifton C. Simmons, district of Massachusetts. January 5, 1938, indictment charging solicitation of concession by means of false claims, and conspiracy to commit that offense; 2 counts.

United States *v.* John F. Conoly, southern district of Georgia. May 12, 1938, indictment charging failure to make full, true, and correct entries in the records of a carrier; 5 counts.

United States *v.* Georgia Granite Corporation, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 9 counts.

United States *v.* Georgia Marble Co., northern district of Georgia. March 15, 1938, indictment charging acceptance of concessions obtained by means of false billing; 8 counts.

United States *v.* J. E. Hammond, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 3 counts.

United States *v.* Interstate Lumber Sales Company, Inc., and S. M. Silverstein, district of Massachusetts. December 23, 1937, indictment charging solicitation of concessions by means of false claims; 3 counts.

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United States *v.* C. E. Luttrell & Company, western district of South Carolina. October 4, 1938, indictment charging acceptance of concessions obtained through unauthorized substitution of scrap materials at stop-off point; 4 counts.

United States *v.* National Produce Company, western district of Tennessee. October 4, 1938, indictment charging acceptance of concessions obtained by means of false reports of weights; 50 counts.

United States *v.* Oglesby Granite Quarriers, middle district of Georgia. January 25, 1938, indictment charging acceptance of concessions obtained through false billing; 10 counts.

United States *v.* Ontario Specialties, Inc., northern district of New York. November 8, 1937, information charging acceptance of concessions obtained by means of false billing; 10 counts.

United States *v.* L. R. Powell, Jr., and Henry W. Anderson as receivers of Seaboard Air Line Railway Company, and M. S. Hawkins and L. H. Windholz as receivers of Norfolk Southern Railroad Company, eastern district of North Carolina. October 31, 1938, indictment charging willful failure to observe published tariffs; 2 counts.

United States *v.* L. R. Powell, Jr., and Henry W. Anderson as receivers of Seaboard Air Line Railway Company; M. S. Hawkins and L. H. Windholz as receivers of Norfolk Southern Railroad Company; and The Atlantic and North Carolina Railroad Company, eastern district of North Carolina. October 31, 1938, indictment charging wilfull failure to observe published tariffs; 5 counts.

United States *v.* John Henry Raybon and Esther Lee Johnson, district of Nebraska. November 29, 1937, information charging unlawful use of pass; 1 count.

United States *v.* The Renner Company, northern district of Ohio. March 16, 1938, information charging acceptance of concessions obtained by means of false reports of weights; 9 counts.

United States *v.* Dominic Spinale, Joseph Morello, and Clifton C. Simmons, district of Massachusetts. January 5, 1938, indictment charging solicitation of concession by means of false claims and conspiracy to commit that offense; 9 counts.

United States *v.* Star Woolen Co., northern district of New York. July 15, 1938, information charging acceptance of concessions obtained through false billing; 20 counts.

United States *v.* Stone Mountain Granite Corporation, northern district of Georgia. March 15, 1938, indictment charging acceptance of concessions obtained by means of false billing; 10 counts.

United States *v.* Sam J. Wilson, southern district of Ohio. October 14, 1938, indictment charging acceptance of concessions obtained by means of furnishing false reports of weights; 10 counts.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1937, AND OCTOBER 31, 1938, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, AND THE ELKINS ACT

United States *v.* Agwilines, Inc., southern district of Florida, indictment charging granting concessions through payment of unauthorized trucking allowances. July 5, 1938, nolle prosequi entered.

United States *v.* J. C. Allen, middle district of Georgia, indictment charging acceptance of concessions obtained through false billing. February 26, 1938, plea of nolo contendere entered and sentence to pay fine of $1,000, $500 of which was suspended, imposed.

United States *v.* J. C. Allen, middle district of Georgia, indictment charging acceptance of concessions obtained by means of false billing. February 26, 1938, plea of nolo contendere entered and sentence to pay fine of $1,000, $500 of which was suspended, imposed.

United States *v.* Fred E. Atlas, district of New Jersey, indictment charging acceptance of concessions consisting of unauthorized drayage allowances. January 21, 1938, plea of guilty entered and fine of $1,000 imposed. Defendant placed on probation for one year.

United States *v.* J. Frank Bailey, middle district of Georgia, indictment charging acceptance of concessions obtained through false billing. August 22, 1938, plea of nolo contendere entered and sentence to pay fine of $1,000, $750 of which was suspended, imposed.

United States *v.* Berkeley Granite Corporation, northern district of Georgia, indictment charging acceptance of concessions obtained by means of false billing. April 23, 1938, plea of guilty entered and fine of $1,000 imposed.

United States v. John Bernardin, eastern district of South Carolina, information charging acceptance of concessions obtained by means of false billing. March 21, 1938, plea of guilty entered and fine of $200 imposed.

United States *v.* John M. Bernasconi, eastern district of South Carolina, information charging acceptance of concessions obtained by means of false billing. March 21, 1938, plea of guilty entered and fine of $200 imposed.

United States *v.* Bonacker & Goodrich, Inc., southern district of Florida, indictment charging acceptance of concessions consisting of unauthorized trucking allowances. July 5, 1938, nolle prosequi entered.

United States *v.* Colgate-Palmolive-Peet Company, district of New Jersey, indictment charging acceptance of concessions resulting from failure to pay applicable pumping charge on import vegetable oils. June 28, 1938, plea in bar sustained and appeal taken to United States Supreme Court.

United States *v.* Conestoga Cream & Cheese Manufacturing Corp., district of New Jersey, information charging acceptance of concessions obtained through false billing of shipments of dairy products. November 19, 1937, plea of guilty entered and fine of $9,000 imposed.

United States *v.* John F. Conoly, southern district of Georgia, indictment charging failure to make full, true and correct entries in the records of a carrier. May 14, 1938, verdict of guilty rendered and sentence to pay fine of $3,000, $2,000 of which was suspended, imposed.

United States *v.* O. T. Cunnings, eastern district of Michigan, indictment charging acceptance of concessions obtained by means of filing false claims. December 7, 1937, plea of nolo contendere entered and sentence to pay fine of $250 imposed. Sentence suspended and defendant placed on probation for two years.

United States *v.* Durkee Famous Foods, Inc., district of New Jersey, indictment charging acceptance of concessions resulting from failure to pay applicable pumping charge on import vegetable oils. June 28, 1938, plea in bar sustained and appeal taken to United States Supreme Court.

United States *v.* Joe Durso, Nicola De Luca and Clifton C. Simmons, district of Massachusetts, indictment charging solicitation of concessions through filing false claims, and conspiracy to commit that offense. February 23, 1938, pleas of guilty entered on behalf of defendants Durso and De Luca, and sentence to serve six months in penitentiary and to pay fine of $1,000 on each of five counts charging the substantive offense, and to pay fine of $250 on the conspiracy count, imposed upon each defendant. Entire sentence, with exception of fines of $250, suspended, and defendants placed on probation for one year.

United States *v.* Georgia Granite Corporation, middle district of Georgia, indictment charging acceptance of concessions obtained by means of false billing. February 26, 1938, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Gold-Hoffman-Post, Inc., and Alexander Golbus, eastern district of Wisconsin, indictment charging the filing of false claims and conspiracy to file false claims. May 26, 1938, sentence to pay fine of $1,000 imposed upon plea of guilty entered by corporation defendant during the preceding year; nolle prosequi entered on behalf of defendant Golbus.

United States *v.* Growers Marketing Co. and Louis Horowitz, eastern district of Michigan, indictment charging acceptance of concessions through failure to pay freight charges promptly. December 7, 1937, nolle prosequi entered.

United States *v.* J. E. Hammond, middle district of Georgia, indictment charging acceptance of concessions obtained by means of false billing. February 26, 1938, plea of nolo contendere entered and sentence to pay fine of $1,000, $500 of which was suspended, imposed.

United States *v.* Interstate Lumber Sales Company, Inc., and S. M. Silverstein, district of Massachusetts, indictment charging receiving concessions obtained by means of filing false claims. April 5, 1938, pleas of guilty entered on behalf of both defendants and fine of $500 imposed upon corporation defendant; individual defendant placed on probation for one year.

United States *v.* Jones-Neuhoff Commission Company, northern district of Georgia, indictment charging acceptance of concessions obtained through unauthorized substitution of livestock at transit point. March 16, 1938, plea of guilty entered and fine of $1,200 imposed.

United States *v.* Lake Fruit Co., Inc., and E. T. Williams, southern district of Florida, indictment charging acceptance of concessions consisting of unau-

thorized trucking allowances. October 11, 1938, verdict of not guilty rendered.

United States *v.* Lake Wales Citrus Growers Association and W. B. Gum, southern district of Florida, indictment charging acceptance of concessions resulting from failure to declare bunker ice in cars. November 2, 1937, plea of nolo contendere entered on behalf of corporation defendant and fine of $1,000 imposed. Nolle prosequi entered on behalf of defendant Gum.

United States *v.* Lehigh Valley Railroad Company, district of New Jersey, information charging granting of concessions through transportation of shipments of dairy products at less than the published charge. November 19, 1937, plea of guilty entered and fine of $2,000 imposed.

United States *v.* Manhattan Lighterage Corporation, district of New Jersey, indictment charging granting of concessions resulting from failure to collect applicable pumping charge on import vegetable oils. June 28, 1938, plea in bar sustained and appeal taken to United States Supreme Court.

United States *v.* Dominico Meli and Clifton C. Simmons, district of Massachusetts, indictment charging solicitation of concessions through filing false claims, and conspiracy to commit that offense. December 3, 1937, plea of guilty entered on behalf of defendant Meli, and sentence to pay fine of $1,000 on each of twelve counts charging the substantive offense, and to pay fine of $500 on the conspiracy count, imposed. Sentence, with exception of the fine of $500, suspended, and defendant placed on probation.

United States *v.* Guiseppi Meli and Clifton C. Simmons, district of Massachusetts, indictment charging solicitation of concessions through filing false claims, and conspiracy to commit that offense. December 3, 1937, plea of guilty entered on behalf of defendant Meli, and sentence to pay fine of $1,000 on each of thirteen counts charging the substantive offense, and to pay fine of $500 on conspiracy count, imposed. Sentence, with the exception of the fine of $500, suspended, and defendant placed on probation.

United States *v.* Merchants and Miners Transportation Company, southern district of Florida, indictment charging granting of concessions by payment of unauthorized trucking allowances. July 5, 1938, nolle prosequi entered.

United States *v.* Midstate Horticultural Company, northern district of California, indictment charging acceptance of concessions growing out of payment by carrier of claim barred by statute of limitations. July 19, 1938, verdict of not guilty rendered.

United States *v.* Midstate Horticultural Company and Arpaxet Setrakian, eastern district of Pennsylvania, indictment charging solicitation and acceptance of concessions by means of false claims. June 16, 1938, demurrer sustained and appeal taken to United States Supreme Court.

United States *v.* Nye and Nissen, Inc., northern district of California, indictment charging solicitation of concession by means of false claims. January 15, 1938, plea of guilty entered and fine of $100 imposed.

United States *v.* Oglesby Granite Quarriers, middle district of Georgia, indictment charging acceptance of concessions obtained by means of false billing. February 26, 1938, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Ontario Specialties, Inc., northern district of New York, information charging acceptance of concessions obtained by means of false billing. November 8, 1937, plea of guilty entered and fine of $2,500 imposed.

United States *v.* Santo Pantano and Clifton C. Simmons, district of Massachusetts, indictment charging solicitation of concessions by means of false claims, and conspiracy to commit that offense. December 3, 1937, plea of guilty entered on behalf of defendant Pantano, and sentence to pay fine of $1,000 on each of thirteen counts charging the substantive offense, and to pay fine of $500 on the conspiracy count, imposed. Sentence, with exception of the fine of $500, suspended, and defendant placed on probation.

United States *v.* Patterson Commission Company, northern district of Georgia, indictment charging acceptance of concessions obtained through unauthorized substitution of livestock at transit point. March 16, 1938, plea of guilty entered and fine of $1,200 imposed.

United States *v.* The Pennsylvania Railroad Company, district of New Jersey, information charging granting concessions through transportation of shipments of dairy products at less than the published charge. November 19, 1937, plea of guilty entered and fine of $4,000 imposed.

United States *v.* The Pennsylvania Railroad Company, eastern district of Pennsylvania, indictment charging granting concessions by device of payment of damage claims. June 16, 1938, demurrer sustained and appeal taken to United States Supreme Court.

United States *v.* C. N. Ragsdale, northern district of Georgia, indictment charging acceptance of concessions obtained through unauthorized substitution of livestock at transit point. March 16, 1938, plea of guilty entered and fine of $1,200 imposed.

United States *v.* John Henry Raybon and Esther Lee Johnson, district of Nebraska, information charging unlawful use of pass. December 16, 1937, pleas of guilty entered and sentence to make restitution of $27.50 to Union Pacific Railroad Company imposed upon defendant Raybon. Defendant Johnson placed on probation for one year.

United States *v.* The Renner Company, northern district of Ohio, information charging receiving of concessions obtained by furnishing false reports of weights. April 4, 1938, plea of guilty entered and fine of $900 imposed.

United States *v.* Rock Island Produce Co. and Louis Rich, southern district of Illinois, indictment charging the furnishing of false reports of weights on shipments of poultry. May 9, 1938, plea of guilty entered on behalf of corporation defendant and fine of $350 imposed; nolle prosequi entered on behalf of defendant Rich.

United States *v.* John J. Ryan & Sons, Inc., western district of South Carolina, indictment charging acceptance of concessions obtained through false billing. April 14, 1938, plea of nolo contendere entered and fine of $1,000 imposed.

United States *v.* Southern Pacific Company, northern district of California, indictment charging granting of concession through payment of claim for damage barred by statute of limitations. July 19, 1938, verdict of not guilty rendered.

United States *v.* Star Woolen Co., northern district of New York, information charging acceptance of concessions obtained by means of false billing. July 15, 1938, plea of nolo contendere entered and fine of $4,000 imposed.

United States *v.* A. Stepanski, district of Massachusetts, indictment charging acceptance of concessions obtained by means of false billing. May 10, 1938, plea of guilty entered and defendant placed on probation for one year.

United States *v.* Leo Traina and Clifton C. Simmons, district of Massachusetts, indictment charging conspiracy to solicit concessions through filing false claims. January 4, 1938, plea of guilty entered on behalf of defendant Traina and sentence to serve six months imprisonment and to pay fine of $500 imposed. Sentence of imprisonment suspended and defendant placed on probation for one year.

APPENDIX B

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS AND REQUIREMENTS OF THE COMMISSION AND STATUS ON OCTOBER 31, 1938, OF CASES PENDING IN THE COURTS

Cases Decided by the Courts Since October 31, 1937

SUPREME COURT OF THE UNITED STATES

South Carolina State Highway Department v. *Barnwell Bros.*

For prior case history see 1937 Annual Report, page 120. On February 14, 1938, decree of the District Court was reversed and cause remanded for further proceedings in conformity with opinion of Supreme Court (303 U. S. 177).

United States v. *W. V. Griffin and H. W. Purvis, Receivers for Ga. & Fla. R. R.*

For prior case history see 1937 Annual Report, page 121. On February 28, 1938, judgment of the District Court was reversed because of lack of jurisdiction (303 U. S. 226).

Escanaba & Lake Superior R. R. Co. v. *United States.*

For prior case history see 1937 Annual Report, page 121. On February 28, 1938, the Commission's order was sustained (303 U. S. 315).

John H. Shannahan & Claude J. Jackson, Trustees, Chicago S. S. & S. B. R. R. v. *United States.*

For prior case history see 1937 Annual Report, page 121. On April 4, 1938, the decree of the District Court was affirmed (303 U. S. 573).

Baltimore & Ohio R. Co. v. *United States.*

For prior case history see 1936 Annual Report, page 120. On December 5, 1937, the case was docketed on appeal to the Supreme Court, and on April 25, 1938, the judgment of the District Court was affirmed (304 U. S. 58).

United States v. *Standard Oil Co. of Louisiana.*

For prior case history see 1937 Annual Report, page 120. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Colin C. Bell & Wm. Tracy Alden, Trustees, Estate of Celotex Co.*

For prior case history see 1937 Annual Report, page 120. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Pan American Petroleum Corp.*

For prior case history see 1937 Annual Report, page 120. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Magnolia Petroleum Co.*

For prior case history see 1937 Annual Report, page 120. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Great Southern Lumber Co.*

For prior case history see 1937 Annual Report, page 120. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Gulf Refining Co.*

For prior case history see 1937 Annual Report, pages 120–121. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *Humble Oil & Refining Co.*

For prior case history see 1937 Annual Report, page 121. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *The Texas Co.*

For prior case history see 1937 Annual Report, page 121. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States v. *The Texas Co.*

For prior case history see 1937 Annual Report, page 121. On April 25, 1938, judgment of the District Court was reversed, and the Commission's order sustained (304 U. S. 156).

United States ex rel. Kansas City Sou. Ry. Co. v. *Interstate Commerce Commission.*

For prior case history see 1937 Annual Report, page 121. On May 2, 1938, judgment of the District Court was affirmed (98 F. (2d) 268). A petition for writ of certiorari to the United States Supreme Court was filed on July 29, 1938, and denied on October 10, 1938.

CIRCUIT COURT OF APPEALS, TENTH CIRCUIT

Shields v. *Utah Idaho Central R. R. Co.*

For prior case history see 1937 Annual Report, page 124. On April 1, 1938, a decree was entered affirming opinion of the District Court (95 F. (2d) 911). A petition for writ of certiorari to the United States Supreme Court was filed on April 21, 1938, and granted on May 31, 1938.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

United States ex rel. Kansas City Sou. Ry. Co. v. *Interstate Commerce Commission.*

For case history see page 131, this volume.

DISTRICT COURTS OF THE UNITED STATES

Board of Pub. U. Commrs. of New Jersey v. *United States.*

For prior case history see 1936 Annual Report, page 116, and 1937 Annual Report, page 124. On December 17, 1937, the petition was denied (21 F. Supp. 543).

Hudson & Manhattan R. R. Co. v. *Hardy.* Southern District of New York.

For prior case history see 1936 Annual Report, page 120, and 1937 Annual Report, page 125. On February 4, 1938, the carrier was held exempt from the provisions of the Railway Labor Act (22 F. Supp. 105).

Baltimore & Ohio R. Co. v. *United States.* Northern District of New York.

For prior case history see 1937 Annual Report, page 125. On December 24, 1937, the Commission's order was held invalid (22 F. Supp. 533), and on March 1, 1938, the case was discontinued, the Commission having reopened the proceeding for further consideration. On April 1, 1938, the court entered an order dismissing the bill.

Diamond Tank Transport, Inc. v. *United States.* Western District of Washington.

Suit in equity to set aside the Commission's order dated November 30, 1937, in I. & S. Docket No. 4281, *Petroleum Between Washington & Oregon Points*, permitting the railroads to reduce their rates on petroleum products, in tank-car loads, from marine storage in the Seattle, Wash., and Portland, Oreg., groups, to certain destinations in eastern Washington and northern Oregon (225 I. C. C. 382).

The petition was filed on December 17, 1937, and on May 18, 1938, the Commission's order was sustained (23 F. Supp. 497). On October 8, 1938, the case was docketed on appeal to the Supreme Court.

Interlake Iron Corp. v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 117, and 1937 Annual Report, page 124. On April 25, 1938, the court sustained the Commission's order (23 F. Supp. 291), and on September 1, 1938, the case was discontinued because not appealed within the time prescribed by law.

Crane Co. v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 117, and 1937 Annual Report, page 124. On April 25, 1938, the court sustained the Commission's order

(23 F. Supp. 291), and on June 28, 1938, the case was discontinued because not appealed within the time prescribed by law.

Inland Steel Co. v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 117, and 1937 Annual Report, page 124. On April 25, 1938, the court sustained the Commission's order (23 F. Supp. 291), and on July 29, 1938, the case was docketed on appeal to the Supreme Court.

Chicago By-Product Coke Co. v. *United States.* Northern District of Illinois.

For prior case history see 1937 Annual Report, page 119. On April 25, 1938, the court sustained the Commission's order (23 F. Supp. 291), and on July 29, 1938, the case was docketed on appeal to the Supreme Court.

American Steel Foundries v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 120, and 1937 Annual Report, page 125. On April 25, 1938, the court sustained the Commission's order (23 F. Supp. 291), and on September 1, 1938, the case was discontinued because not appealed within the time prescribed by law.

Great Lakes Steel Corp. v. *United States.* Eastern District of Michigan.

For prior case history see 1936 Annual Report, page 117, and 1937 Annual Report, page 124. On May 28, 1938, the court sustained the Commission's order, and on August 1, 1938, the case was discontinued because not appealed within the time prescribed by law.

Manhattan Transit Co., Inc. v. *United States.* District of Massachusetts.

Suit in equity to set aside and annul certain orders in I. & S. Dockets Nos. M–228 and M–335, wherein the Commission, pending hearings thereon, suspended operation of schedules proposing changes in rates on beer, ale, porter, etc.

The bill of complaint was filed on April 23, 1938, and on June 13, 1938, the injunction was denied and the bill dismissed (24 F. Supp. 174).

Dan E. Maher dba Interstate Busses v. *United States.* District of Oregon.

Suit in equity to set aside the Commission's order dated October 27, 1937, in Docket No. MC–59620, holding applicant had failed to establish a right to a certificate as a common carrier of passengers by motor vehicle under the "grandfather clause" of the Motor Carrier Act, 1935, between Portland, Ore., and Seattle, Wash., and directing applicant to cease operations (3 M. C. C. 479).

The bill of complaint was filed on December 15, 1937, and on June 16, 1938, the Commission's order was held invalid (23 F. Supp. 810). On October 20, 1938, the case was docketed on appeal to the Supreme Court.

Frank Visceglia dba Ace United Van Service v. *United States.* Southern District of New York.

Suit in equity to set aside and enjoin the Commission's order dated December 2, 1937, in Dockets Nos. MC–49177 and MC–49178, denying application for authority under the Motor Carrier Act to continue operations as motor carriers; and in Docket No. MC–45400, denying application for a broker's license (3 M. C. C. 589).

On February 18, 1938, the bill of complaint was filed, and on June 10, 1938, the Commission's order was sustained (24 F. Supp. 355). The case was discontinued on September 1, 1938, because not appealed within the time prescribed by law.

Acme Steel Co. v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 118, and 1937 Annual Report, page 119. On April 25, 1938, the court sustained the Commission's order (23 F. Supp. 291), and on September 1, 1938, the case was discontinued because not appealed within the time prescribed by law.

Keystone Steel & Wire Co. v. *United States.* Southern District of Illinois.

For prior case history see 1936 Annual Report, page 116. On June 21, 1938, the court entered a final decree dissolving the injunction and dismissing the suit.

Lester A. Cranceer & Geo. B. Fleishman, copartners, dba Valley Steel Products Co. v. *United States.* Eastern District of Missouri.

Suit in equity to set aside and annul the Commission's order dated August 6, 1937, in Docket No. 27535, *Cranceer et al.* v. *Abilene & Sou. Ry. Co. et al.*, wherein the Commission found that scrap iron rates charged on used iron or steel pipe thread protecting rings in carloads, from points in the southwest to St. Louis, Mo., and East St. Louis, Ill., were inapplicable; that the applicable rates have not been shown to be unreasonable, and that the complaint should be dismissed (223 I. C. C. 375).

The petition was filed on December 17, 1937, and on June 16, 1938, the Commission's order was sustained (23 F. Supp. 690). On October 6, 1938, the case was docketed on appeal to the Supreme Court.

Baltimore & Ohio R. Co. v. *United States.* Northern District of New York.

Suit in equity to set aside the Commission's order of February 28, 1938, in Docket No. 26285, *Thomas Keery Co., Inc., et al.* v. *N. Y., O. & W. Ry. Co., et al.*, finding that rates on methanol (wood alcohol), in carloads, from producing points in Pennsylvania and New York, to Cadosia, N. Y., for refining, and thence shipped to destinations in Official Classification Territory were unreasonable (206 I. C. C. 585; 211 I. C. C. 451; 226 I. C. C. 335).

The petition was filed on May 12, 1938, and on August 9, 1938, the Commission's order was sustained and the petition dismissed.

Cases Discontinued

DISTRICT COURTS OF THE UNITED STATES

Charles H. Kelby & Clifford H. Kelsey, Trustees, v. *John Ringling.* District of Columbia.

For prior case history see 1936 Annual Report, page 118. On November 4, 1937, the case was dismissed on motion of all parties.

Albert Taylor & Cornelius J. Coleman dba 3 States Express v. *United States.* District of Massachusetts.

Suit in equity to enjoin, set aside, annul, and suspend, in whole or in part, the Commission's order dated November 5, 1937, rescinding and setting aside Special Permission No. M-9080, of October 18, 1937, permitting motor carrier class and commodity rates, rules, etc., as contained in tariffs MF-ICC Nos. 3 and 4, to become effective upon short notice.

The bill of complaint was filed on November 13, 1937, and on November 23, 1937, the suit was dismissed by the court, the Commission having entered its order of November 22, 1937, setting aside said order of November 5, 1937.

Timken Roller Bearing Co. v. *United States.* Northern District of Ohio.

For prior case history see 1936 Annual Report, page 116. On November 2, 1937, the case was dismissed by the court at plaintiff's costs.

Master Truckmen of America, Inc., v. *United States.* Southern District of New York.

For prior case history see 1937 Annual Report, page 119. On November 10, 1937, the case was discontinued by the court upon stipulation of the parties.

Merchant Truckmen's Bureau of New York v. *United States.* Southern District of New York.

For prior case history see 1937 Annual Report, page 119. On December 15, 1937, the case was discontinued by the court upon stipulation of the parties.

Louisville Cement Co. v. *United States.* Western District of Kentucky.

For prior case history see 1937 Annual Report, page 122. On November 26, 1937, the case was discontinued because not appealed within the time prescribed by law.

Missouri Pacific R. Co. v. *United States.* Eastern District of Missouri.

For prior case history see 1937 Annual Report, page 125. On January 4, 1938, the case was discontinued because not appealed within the time prescribed by law.

Koppers Gas & Coke Co. v. *United States.* District of Minnesota.

For prior case history see 1935 Annual Report, page 109, 1936 Annual Report, page 116, and 1937 Annual Report, page 121. On March 1, 1938, the case was discontinued because not appealed within the time prescribed by law.

Baltimore & Ohio R. Co. v. *United States. Northern District of New York.*

For case history see page 131, this volume.

Wisconsin Steel Co. v. *United States.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 117, and 1937 Annual Report, page 124. On April 18, 1938, the court entered an order dismissing the bill.

Wheeling Steel Corp. v. *United States.* Northern District of West Virginia.

For prior history of these three cases see 1936 Annual Report, page 118. On May 12, 1938, the court entered a final decree, dismissing the three cases at plaintiff's costs.

A. E. Staley Mfg. Co. v. *United States.* Southern District of Illinois.

For case history see 1936 Annual Report, page 121. On May 19, 1938, the case was dismissed by the court on plaintiff's motion.

James G. Blaine, et al., a Committee, etc. v. *United States.* Northern District of Illinois.

For case history see 1937 Annual Report, page 126. On May 21, 1938, the case was discontinued for lack of prosecution.

Keystone Steel & Wire Co. v. *United States.* Southern District of Illinois.

For case history see 1936 Annual Report, page 116, and page 132, this volume.

Crane Co. v. *United States.* Northern District of Illinois.

For case history see pages 131–132, this volume.

Warren Foundry & Pipe Co. v. *United States.* District of New Jersey.

For case history see 1936 Annual Report, page 120. On May 31, 1938, the case was dismissed by the court on stipulation of the parties.

State of Montana ex rel. Bd. of R. R. Commrs. of Montana v. *United States.* District of Montana.

For case history see 1936 Annual Report, page 118. On June 1, 1938, the case was discontinued, having been theretofore dismissed by the court.

Great Lakes Steel Corp. v. *United States.* Eastern District of Michigan.

For case history see page 132, this volume.

Interlake Iron Corp. v. *United States.* Northern District of Ohio.

For case history see 1936 Annual Report, page 116. On June 20, 1938, the court entered a decree dismissing the case pursuant to stipulation of the parties.

Interlake Iron Corp. v. *United States.* Northern District of Illinois.

For case history see page 131, this volume.

Acme Steel Co. v. *United States.* Northern District of Illinois.

For case history see page 132, this volume.

American Steel Foundries v. *United States.* Northern District of Illinois.

For case history see page 132, this volume.

Frank Visceglia dba Ace United Van Service v. *United States.* Southern District of New York.

For case history see page 132, this volume.

Adams Packing Co. v. *McLain.* Eastern District of Kentucky.

For case history see 1937 Annual Report, page 125. On September 16, 1938, the case was dismissed by the court on motion of plaintiffs, consented to by defendants.

Ann Arbor R. R. Co. (*Norman B. Pitcairn & Frank C. Nicodemus, Jr., Receivers*) v. *United States.* Southern District of New York.

For case history see 1936 Annual Report, page 118. On October 11, 1938, the court dismissed the case pursuant to stipulation of all parties.

Chicago Warehouse & Terminal Co. v. *Igoe.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 119. On November 1, 1937, the case was dismissed on plaintiff's motion.

Chicago Tunnel Co. v. *Igoe.* Northern District of Illinois.

For prior case history see 1936 Annual Report, page 119. On October 12, 1938, advice was received that the case had theretofore been dismissed on plaintiff's motion.

Howard P. Doyle v. *United States.* Northern District of California.

Suit in equity to set aside Commission's order dated April 22, 1937, as amended by its order of June 3, 1937, holding applicant had failed to establish a right to a certificate as a common carrier of passengers by motor vehicle under the "grandfather clause" of the Motor Carrier Act, 1935. (1 M. C. C. 761.)

The complaint was filed on July 15, 1937, and on June 20, 1938, the case was dismissed by plaintiff.

Summary of Cases Pending

Supreme Court of the United States

Shields v. *Utah Idaho Central R. R. Co.*

For case history see page 131, this volume.

Baltimore & Ohio R. Co. v. *United States.*

For case history see 1937 Annual Report, page 122. On June 20, 1938, the case was docketed on appeal to the Supreme Court.

Inland Steel Co. v. *United States.*

For case history see page 131, this volume.

Chicago By-Product Coke Co. v. *United States.*

For case history see page 132, this volume.

Lester A. Crancer & Geo. B. Fleishman, co-partners, dba Valley Steel Products Co. v. *United States.*

For case history see page 132, this volume.

Diamond Tank Transport, Inc. v. *United States.*

For case history see page 131, this volume.

United States v. *Dan E. Maher dba Interstate Busses.*

For case history see page 132, this volume

Cases Pending

DISTRICT COURTS OF THE UNITED STATES

Board of Pub. U. Commrs. of New Jersey v. *United States.* District of New Jersey.

For prior case history see page 131, this volume.

Texas Electric Ry. Co. v. *Thomas.* Northern District of Texas.

For case history see 1936 Annual Report, page 119.

Texas Electric Ry. Co. v. *Eastus.* Northern District of Texas.

For case history see 1936 Annual Report, page 119. On June 4, 1938, the Commission's petition of intervention and answer were filed, and on June 27, 1938, a hearing was held for the submission of evidence.

Hudson & Manhattan R. R. Co. v. *Hardy.* Southern District of New York.

For prior case history see page 131, this volume.

Hudson & Manhattan R. R. Co. v. *Quinn.* District of New Jersey.

For case history see 1936 Annual Report, page 120.

Clinton L. Bardo, Trustee, New York, W. & B. Ry. Co. v. *Hardy.* Southern District of New York.

For case history see 1936 Annual Report, page 121.

A. E. Staley Mfg. Co. v. *Illinois Central R. Co.* Southern District of Illinois.

For case history see 1937 Annual Report, page 125. On February 11, 1938, the case was argued and submitted for decision.

Charles Noeding Trucking Co. v. *United States.* District of New Jersey.

For case history see 1937 Annual Report, page 126. On February 21, 1938, the case was argued and submitted for decision.

Manhattan Transit Co., Inc. v. *United States.* District of Massachusetts.

For case history see page 132, this volume.

Baltimore & Ohio R. Co. v. *United States.* Northern District of New York.

For case history see page 131, this volume.

Chicago, S. S. & S. B. R. R. v. *Flemming.* Northern District of Indiana.

Suit in equity to enjoin the District Attorney from proceeding against plaintiff for violation of the Railway Labor Act upon the ground that plaintiff's lines constitute an electric interurban railway exempt from the provisions of said Act, notwithstanding the Commission's finding and determination in Railway Labor Act Docket No. 8 (214 I. C. C. 167).

The bill of complaint was filed in May, 1938, and on June 3, 1938, the Commission's petition for leave to intervene as a party defendant was filed.

United States ex rel. Geo. Allison & Co., Inc. v. *Interstate Commerce Commission.* District of Columbia.

Petition for writ of mandamus to compel the Commission to direct the railroads to refund to petitioners certain monies paid as express charges and refrigeration charges, with interest at 6 per cent on shipments of strawberries. Dockets Nos. 24145 and 24671 (190 I. C. C. 520; 197 I. C. C. 85; 226 I. C. C. 637).

The petition was filed on May 20, 1938, and the Commission's answer was filed on June 13, 1938.

Pittsburgh, L. & W. R. R. Co. v. *United States.* Western District of Pennsylvania.

Suit in equity to set aside the Commission's order dated April 4, 1938, in Docket No. 27402, *Pittsburgh, L. & W. R. Co. et al., Practices* (227 I. C. C. 73), prescribing interstate and intrastate rates on coal from the Leetonia District in Ohio to Youngstown, Ohio.

On June 10, 1938, the petition was filed, and on July 11, 1938, the Commission's answer was filed.

Atchison, T. & S. F. Ry. Co. v. *United States.* Northern District of Ohio.

Suit in equity to set aside the Commission's order dated December 27, 1937, in Docket No. 24049, *A. Johnston et al.* v. *A., T. & S. F. Ry. Co. et al.* (225 I. C. C.

519), wherein the Commission found that the use of coal-burning steam locomotives of certain classes, when hand-fired, caused unnecessary peril to life and limb, and required that said locomotives before use be equipped with automatic stokers, or other mechanical means of supplying fuel to the fire.

On June 17, 1938, the petition was filed, and on June 24, 1938, the Commission's petition of intervention was filed.

City of Jersey City v. *United States.* District of New Jersey.

Suit in equity to set aside a portion of the Commission's order dated July 11, 1938, in I. & S. Docket No. 4394, *Passenger Fares, Hudson & Manhattan R. R.*, permitting an increase in the local passenger fare of the H. & M. between Jersey City and Hoboken, N. J., and Hudson Terminal, New York, N. Y., from 6¢ to 8¢ (227 I. C. C. 741).

On July 21, 1938, the petition was filed, and on August 15, 1938, the intervention and answer of the Commission were filed.

Valvoline Oil Co. v. *United States.* Western District of Pennsylvania.

Suit in equity to enjoin the Commission's order dated June 6, 1938, involving the question of the common-carrier status of the Valvoline Oil Co., requiring the Oil Co., within 90 days from date of service of the order, to comply with Valuation Order No. 26.

On August 5, 1938, the petition was filed, and on September 29, 1938, the case was argued and submitted for decision.

Union Stock Yard & Transit Co. of Chicago v. *United States.* Northern District of Illinois.

Suit in equity to set aside and annul the Commission's order of July 11, 1938, in I. & S. Docket No. 4296, *Cancellation of Live Stock Services at Chicago*, wherein the Commission found the Union Stock Yard & Transit Co. to be a common carrier subject to the Act, and further found that the Stock Yard's proposal to cancel its tariffs naming loading and unloading charges on live stock at Chicago was not justified (227 I. C. C. 716).

On August 23, 1938, the petition was filed and on September 23, 1938, the Commission's answer was filed.

APPENDIX C

STATISTICAL SUMMARIES

A. Statistics of railway development since 1927.
B. Statistics from monthly and other periodical reports of carriers.

A. Statistics of Railway Development

Data for years preceding 1927 for most of the tables appear in prior reports.

TABLE I.—*Mileage operated and mileage owned by steam railways in the United States, not including switching and terminal companies, 1927–37*

Year ended Dec. 31—	Road owned in the United States [1]	Mileage operated by railways of classes I, II, and III (including trackage rights)			
		First main track	Second or additional main tracks	Yard track and sidings	All tracks
1927	249,131	259,639	42,071	123,027	424,737
1928	249,309	260,546	42,432	124,772	427,750
1929	249,433	260,570	42,711	125,773	429,054
1930	249,052	260,440	42,742	126,701	429,883
1931	248,829	259,999	42,780	127,044	429,823
1932	247,595	258,869	42,556	126,977	428,402
1933	245,703	256,741	42,397	126,526	425,664
1934	243,857	254,882	42,109	125,410	422,401
1935	241,822	252,930	41,916	124,382	419,228
1936	240,104	251,542	41,731	123,108	416,381
1937	238,539	250,582	41,579	122,411	414,572

[1] Includes mileage of some small companies that do not make annual reports to the Commission.

TABLE II.—*Equipment of steam railways, including switching and terminal companies in service at the close of each year, 1927–37* [1]

Year ended Dec. 31—	Number of locomotives	Average tractive effort [2]	Number of freight cars (excluding caboose)	Average capacity [2]	Number of passenger-train cars
		Pounds		*Tons*	
1927	65,348	42,798	2,378,800	45.5	55,729
1928	63,311	43,838	2,346,751	45.8	54,800
1929	61,257	44,801	2,323,683	46.3	53,838
1930	60,189	45,225	2,322,267	46.6	53,584
1931	58,652	45,764	2,245,904	47.0	52,096
1932	56,732	46,299	2,184,690	47.0	50,598
1933	54,228	46,916	2,072,632	47 5	47,677
1934	51,423	47,712	1,973,247	48 0	44,884
1935	49,541	48,367	1,867,381	48 3	42,426
1936	48,009	48,972	1,790,043	48 8	41,390
1937	47,555	49,412	1,776,428	49.2	40,949

[1] Privately owned cars and cars owned by the Pullman Co. are not included. In 1937, privately owned freight-carrying cars numbered 290,668 and cars owned by the Pullman Co., 7,757.
[2] Class I steam railways.

TABLE III.—*Railway capital actually outstanding and net income, 1927–37: Steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Total railway capital	Funded debt unmatured [1]	Stock	Ratio of debt to capital	Net income [2]	Ratio of net income to stock
	Thousands	*Thousands*	*Thousands*	*Percent*	*Thousands*	*Percent*
1927	$21,848,928	$12,309,438	$9,539,490	56.3	$741,924	7.78
1928	22,025,588	12,303,510	9,722,078	55.9	855,018	8.79
1929	22,306,752	12,459,441	9,847,311	55.9	977,230	9.92
1930	22,782,889	12,771,351	10,011,538	56.1	577,923	5.77
1931	22,747,229	12,738,815	10,008,414	56.0	169,287	1.69
1932	22,831,547	12,788,785	10,042,762	56.0	*121,630*	----------
1933	22,656,920	12,629,828	10,027,092	55.7	26,543	.26
1934	22,412,057	12,453,507	9,958,550	55.6	23,282	.23
1935	22,079,551	12,154,349	9,925,202	55.0	52,177	.53
1936	21,961,035	12,031,385	9,929,650	54.8	221,591	2.23
1937	21,694,645	11,881,981	9,812,664	54.8	146,351	1.49

[1] Does not include funded debt matured unpaid. For class I railways and their nonoperating subsidiaries such debt amounted to $572,015 (thousands) at the close of 1937.

[2] Intercorporate duplications not eliminated, but amounts shown correspond with the stock in the second preceding column.

TABLE IV.—*Dividends, 1927–37: Steam railways, including lessor companies, but excluding switching and terminal companies*

Year ended Dec. 31—	Proportion of stock paying dividends [1]	Amount of dividends [1]	Average rate on—	
			Dividend-paying stock [1]	All stock
	Percent	*Thousands*	*Percent*	*Percent*
1927	70.25	[2] $507,281	8.47	5.95
1928	73.65	510,018	7.12	5.25
1929	76.23	560,902	7.47	5.70
1930	76.93	603,150	7.83	6.02
1931	73.20	401,463	5.48	4.01
1932	32.85	150,774	4.57	1.50
1933	31.11	158,790	5.09	1.58
1934	34.26	211,767	6.21	2.13
1935	34.39	202,568	5.94	2.04
1936	36.20	231,733	6.45	2.33
1937	39.64	227,596	5.85	2.32

[1] Includes figures for lessors and operating railways without excluding duplications on account of intercorporate payments. Stock dividends for the last 11 years have been as follows: $10,153,120 in 1927; $750,000 in 1928; $30,000 in 1929; $9,600,000 in 1930; $400,000 in 1931; $1,572,000 in 1932; and $15,436,348 in 1936.

[2] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE V.—*Reported property investment and certain income items, 1927–37: Operating steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Investment [1]	Investment per mile of road	Depreciation reserve	Net railway operating income [2]	Other income [3]	Fixed charges and other deductions [4]	Dividends declared [5]
	Thousands		*Thousands*	*Thousands*	*Thousands*	*Thousands*	*Thousands*
1927	[6] $24,453,871	$99,546	$1,946,798	$1,077,842	$314,396	$722,485	[7] $503,146
1928	[6] 24,875,984	100,974	2,043,976	1,182,467	323,310	720,776	436,217
1929	[6] 25,465,036	103,197	2,169,736	1,262,636	362,363	728,428	495,245
1930	[6] 26,051,000	105,661	2,360,767	874,154	361,196	716,730	511,259
1931	[6] 26,094,899	105,953	2,520,738	528,204	307,785	708,622	333,986
1932	[6] 26,086,991	106,337	2,632,922	325,332	226,092	701,500	97,245
1933	[6] 25,901,962	106,437	2,707,942	477,326	213,592	703,745	98,443
1934	[6] 25,681,608	106,279	2,764,726	465,896	203,941	694,360	136,018
1935	[6] 25,500,465	106,339	2,771,404	505,415	186,228	686,688	131,448
1936	[6] 25,432,388	106,783	2,809,063	675,600	182,821	693,479	175,332
1937	[6] 25,636,082	108,235	2,950,848	597,841	170,337	670,291	172,795

[1] Includes investment of operating, lessor, and proprietary companies. Proprietary companies do not render annual reports to the Commission but information concerning them is given in reports of the operating companies.

[2] This term, as defined in the Interstate Commerce Act, means "railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents."

[3] Includes amounts received as interest or dividends on railroad securities owned by reporting carriers. See Statistics of Railways Statement No. 34.

[4] The interest included represents accruals, not payments. In 1937 the interest accrued on unmatured funded debt in excess of payments was $103,919,168 for class I steam railways.

[5] Does not exclude duplication on account of intercorporate payments. Excludes dividends declared by lessor companies. Stock dividends for the last 11 years have been as follows: $10,053,120 in 1927; $750,000 in 1928; $30,000 in 1929; $9,600,000 in 1930; $400,000 in 1931; $1,572,000 in 1932; and $15,436,348 in 1936.

[6] Includes investment of lessor and proprietary companies, as follows, but excludes investment of proprietary companies in systems which file consolidated annual reports combining the mileage, investment, and other items on a net system basis:

Year	Lessor companies	Proprietary companies	Year	Lessor companies	Proprietary companies
	Thousands	*Thousands*		*Thousands*	*Thousands*
1927	$3,915,312	$919,095	1933	$4,577,564	$1,096,264
1928	3,803,075	1,013,752	1934	4,306,287	890,581
1929	3,939,325	1,051,469	1935	4,302,199	861,716
1930	4,497,568	1,095,631	1936	4,690,072	861,696
1931	4,488,768	1,114,637	1937	4,174,633	848,173
1932	4,578,876	1,121,945			

[7] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE VI.—*Operating revenues, operating expenses, and taxes, class I steam railways, 1927–37*

Year ended Dec. 31—	Operating revenues	Freight revenue	Passenger revenue	Operating expenses	Railway tax accruals [1]	Ratio to revenues		
						Maintenance of way and structures	Maintenance of equipment	Total operating expenses
	Thousands	*Thousands*	*Thousands*	*Thousands*	*Thousands*	*Percent*	*Percent*	*Percent*
1927	$6,136,300	$4,632,321	$974,951	$4,574,178	$378,025	14.15	19.87	74.54
1928	6,111,736	4,680,456	901,019	4,427,995	391,166	13.71	19.09	72.45
1929	6,279,521	4,815,448	872,466	4,506,056	398,385	13.62	19.16	71.76
1930	5,281,197	4,075,698	728,488	3,930,929	350,042	13.36	19.30	74.43
1931	4,188,343	3,248,754	550,250	3,223,575	304,149	12.67	19.51	76.97
1932	3,126,760	2,446,864	376,539	2,403,445	276,061	11.23	19.80	76.87
1933	3,095,404	2,488,848	328,957	2,249,232	251,757	10.41	19.34	72.66
1934	3,271,567	2,629,302	345,890	2,441,823	241,813	11.17	19.50	74.64
1935	3,451,929	2,786,118	357,493	2,592,741	239,441	11.41	19.75	75.11
1936	4,052,734	3,302,894	412,144	2,931,425	322,392	11.22	19.32	72.33
1937	4,166,069	3,370,959	442,518	3,119,065	329,401	11.90	19.84	74.87

[1] Includes lessor companies.

TABLE VII.—*Number and compensation of employees, class I steam railways, 1927–37*

Year ended Dec. 31—	Average number of employees during year [1]	Compensation of railway employees [2]		
		Total	Ratio to revenues	Ratio to expenses
		Thousands	*Percent*	*Percent*
1927	1,735,105	$2,910,182	47.43	63.62
1928	1,656,411	2,826,590	46.25	63.83
1929	1,660,850	2,896,566	46.13	64.28
1930	1,487,839	2,550,789	48.30	64.89
1931	1,258,719	2,094,994	50.02	64.99
1932	1,031,703	1,512,816	48.38	62.94
1933	971,196	1,403,841	45.35	62.41
1934	1,007,702	1,519,352	46.44	62.22
1935	994,371	1,643,879	47.62	63.40
1936	1,065,624	1,848,636	45 61	63.06
1937	1,114,663	1,985,447	47.66	63.66

[1] This is the average of 12 counts made at middle of month and differs from the number of persons receiving pay during the month or year regardless of whether for a long or short period.
[2] In 1937, $1,865,392 (thousands), or 93.95 percent of the reported compensation, was chargeable to operating expenses.

TABLE VIII.—*Transportation service performed by steam railways, 1927–37, excluding switching and terminal companies*

Year ended Dec. 31—	Freight service					Passenger service		
	Revenue tons originated	Revenue tons carried 1 mile	Loaded car-miles	Average haul		Passengers carried	Passenger-miles	Average journey per passenger [1]
				United States as a system	For the individual road			
	Thousands	*Millions*	*Millions*	*Miles*	*Miles*	*Millions*	*Millions*	*Miles*
1927	1,372,547	432,014	17,551	314.75	172.11	840	33,793	40.23
1928	1,371,359	436,087	17,938	318.00	174.14	798	31,718	39 72
1929	1,419,383	450,189	18,358	317.17	174.20	786	31,165	39.63
1930	1,220,134	385,815	15,893	316.21	177.06	708	26,876	37.96
1931	944,846	311,073	13,271	329.23	183.62	599	21,933	36.60
1932	678,854	235,309	10,430	346.63	191.45	481	16,997	35.36
1933	733,391	250,651	10,776	341.77	189.53	435	16,368	37.64
1934	802,276	270,292	11,657	336.91	187.65	452	18,069	39.96
1935	831,656	283,637	12,076	341.05	188.77	448	18,509	41.31
1936	1,011,530	341,182	14,031	337.29	188.94	492	22,460	45.60
1937	1,075,237	362,815	14,702	337.43	188.14	500	24,695	49.42

[1] This average is affected by the changing ratio of commutation traffic to the total traffic.

TABLE IX.—*Carload, trainload, and density of traffic, class I steam railways, 1927–37*

Year ended Dec. 31—	Ton-miles, revenue and nonrevenue freight per loaded freight car-mile	Revenue ton-miles per train-mile	Passenger-miles per car-mile	Passenger-miles per train-mile	Revenue ton-miles per mile of road	Passenger-miles per mile of road
1927	27.06	702	14	59	1,801,414	141,800
1928	26.59	718	13	56	1,802,703	131,971
1929	26.78	737	13	55	1,851,620	129,011
1930	26.52	717	11	49	1,533,465	111,063
1931	25.57	669	10	45	1,276,861	90,662
1932	24.75	600	10	40	968,772	70,467
1933	25.44	635	10	43	1,035,707	68,100
1934	25.48	639	11	47	1,124,542	75,730
1935	25.79	662	11	48	1,185,368	78,116
1936	26.77	703	13	55	1,432,154	95,232
1937	27.07	724	13	59	1,530,667	105,377

TABLE X.—*Average receipts per ton, per ton-mile, per passenger, and per passenger-mile, 1927–37*

Year ended Dec. 31—	Average amount received for each ton originated	Revenue per ton-mile	Average receipts per passenger	Revenue per passenger-mile
		Cents		*Cents*
1927	$3.445	1.095	$1.167	2.901
1928	3.479	1.094	1.134	2.854
1929	3.452	1.088	1.114	2.811
1930	3.397	1.074	1.032	2.719
1931	3.495	1.062	.921	2.515
1932	3.661	1.056	.785	2.221
1933	3.448	1.009	.758	2.015
1934	3.330	.989	.767	1.920
1935	3.404	.998	.800	1.936
1936	3.318	.984	.839	1.840
1937	3.189	.945	.888	1.796

TABLE XI.—*Fuel consumed by steam locomotives, and rails and ties laid, class I steam railways, not including switching and terminal companies, 1927–37*

Year ended Dec. 31—	Bituminous coal	Anthracite coal	Fuel oil		Total fuel [1]	Rails applied in replacement and betterment (all tracks)	Ties laid in previously constructed tracks	
							Crossties	Switch and bridge ties
	Net tons	*Net tons*	*Thousands of gallons*	*Equivalent tons*	*Net tons*	*Long tons*	*Number*	*Feet (b. m.)*
1927	115,882,570	1,603,109	2,429,935	[2]	132,945,460	3,819,115	78,340,182	259,996,468
1928	112,381,588	1,490,261	2,498,144	[2]	129,742,475	3,805,651	77,370,941	269,149,270
1929	113,893,839	1,578,795	2,628,414	[2]	132,137,030	3,610,455	74,679,375	250,062,751
1930	98,399,643	1,139,508	2,366,569	[2]	114,458,305	2,673,674	63,353,828	235,314,604
1931	81,724,711	542,719	2,015,695	[2]	94,924,409	1,714,905	51,501,659	188,594,522
1932	66,497,832	327,484	1,759,124	11,001,819	77,858,747	797,320	39,190,473	140,565,691
1933	66,198,465	477,574	1,709,032	10,668,937	77,384,143	862,29[3]	37,295,716	134,148,930
1934	70,495,547	603,079	1,868,381	11,667,945	82,810,885	1,165,304	43,306,205	155,248,532
1935	71,334,736	508,229	1,993,176	12,920,919	84,782,729	1,159,039	44,326,151	156,535,925
1936	81,129,740	484,537	2,353,484	15,106,820	96,755,785	1,701,350	47,361,015	167,377,828
1937	82,666,673	473,286	2,581,441	16,561,713	99,732,944	1,974,597	47,729,538	159,429,849

[1] In the statement of consumption of fuel by locomotives, 1 cord of hardwood is considered as equivalent to ⅔ of a ton of fuel and 1 cord of softwood as equivalent to ½ of a ton of fuel. The ratio used in reducing fuel oil to tons of fuel is left to the experience of each road. Figures include data for cordwood, also a small amount of miscellaneous fuel. Does not include equivalent tons for fuel consumed by motive power units, other than steam locomotives, which in 1937 amounted to 2,479,734 tons.

[2] Data not available, except approximately by subtraction.

TABLE XII.—*Selected data from annual reports of class I steam railways, 1937 and 1936, by districts*

Item	All districts		Eastern district	
	Year ended Dec. 31—			
	1937	1936	1937	1936
Railway operating revenues (thousands)	$4,166,069	$4,052,734	$1,812,675	$1,787,658
Railway operating expenses:				
Total (thousands)	$3,119,065	$2,931,425	$1,362,759	$1,295,062
Maintenance of way and structures (thousands)	$495,594	$454,810	$195,661	$176,041
Maintenance of equipment (thousands)	$826,709	$783,000	$374,118	$356,958
Transportation—rail line (thousands)	$1,504,642	$1,401,187	$676,732	$640,501
Net railway operating income (thousands)	$590,204	$667,347	$247,194	$289,068
Freight-service statistics:				
Freight revenue (thousands)	$3,370,959	$3,302,894	$1,413,213	$1,404,528
Revenue tons originated (thousands)	1,015,586	958,830	431,200	417,032
Total revenue tons carried (thousands)	1,825,342	1,712,975	930,821	885,023
Revenue tons carried 1 mile (thousands)	360,620,269	339,245,826	145,617,981	138,202,324
Revenue per ton-mile (cents)	0.935	0.974	0.971	1.016
Revenue ton-miles per mile of road	1,530,667	1,432,154	2,499,270	2,359,287
Freight train-miles (thousands)	501,686	486,341	170,448	166,651
Revenue ton-miles per train-mile	724	703	864	840
Loaded car-miles (thousands)	14,617,571	13,954,297	5,538,542	5,295,961
Empty car-miles (thousands)	8,581,218	8,160,035	3,169,924	3,054,534
Ton-miles revenue and nonrevenue freight per loaded car-mile	27.07	26.77	28.21	28.01
Average haul per road (miles)	197.56	198.04	156.44	156.16
Passenger service statistics:				
Passenger revenue (thousands)	$442,518	$412,144	$243,425	$232,375
Passengers carried (thousands)	497,288	490,091	354,035	351,857
Passenger-miles (thousands)	24,655,414	22,421,009	12,967,834	11,841,228
Revenue per passenger-mile (cents)	1.79	1.84	1.88	1.96
Passenger-miles per mile of road	105,377	95,232	225,810	204,724
Average journey per passenger (miles)	49.58	45.75	36.63	33.65
Passenger-miles per train-mile	59	55	75	70

Item	Southern district		Western district	
	Year ended Dec. 31—			
	1937	1936	1937	1936
Railway operating revenues (thousands)	$767,584	$756,585	$1,585,810	$1,508,491
Railway operating expenses:				
Total (thousands)	$531,589	$505,023	$1,224,717	$1,131,340
Maintenance of way and structure (thousands)	$85,688	$80,962	$214,245	$197,807
Maintenance of equipment (thousands)	$149,647	$144,073	$302,944	$281,969
Transportation—rail line (thousands)	$245,645	$230,341	$582,265	$530,345
Net railway operating income (thousands)	$160,029	$177,302	$182,981	$200,977
Freight-service statistics:				
Freight revenue (thousands)	$654,127	$650,429	$1,303,619	$1,247,937
Revenue tons originated (thousands)	240,466	230,562	343,920	311,236
Total revenue tons carried (thousands)	360,960	342,222	533,561	485,730
Revenue tons carried 1 mile (thousands)	81,845,763	78,313,706	133,156,525	122,729,796
Revenue per ton-mile (cents)	0.799	0.831	0.979	1.017
Revenue ton-miles per mile of road	1,827,975	1,744,142	1,005,160	920,020
Freight train-miles (thousands)	103,155	100,550	228,083	219,140
Revenue ton-miles per train-mile	799	784	587	563
Loaded car-miles (thousands)	2,828,202	2,726,326	6,250,827	5,932,010
Empty car-miles (thousands)	1,722,530	1,644,902	3,688,764	3,460,599
Ton-miles revenue and nonrevenue freight per loaded car-mile	31.36	31.39	24.13	23.55
Average haul per road (miles)	226.74	228.84	249.56	252.67
Passenger-service statistics:				
Passenger revenue (thousands)	$60,943	$55,328	$138,150	$124,441
Passengers carried (thousands)	57,193	53,074	86,060	85,160
Passenger-miles (thousands)	3,405,542	3,133,314	8,282,038	7,446,467
Revenue per passenger-mile (cents)	1.79	1.77	1.67	1.67
Passenger-miles per mile of road	76,061	69,783	62,852	56,117
Average journey per passenger (miles)	59.54	59.04	96.24	87.44
Passenger-miles per train-mile	48	44	48	45

B. Statistics from Monthly and Other Periodical Reports of Carriers

TABLE A–1.—*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1934–38, class I steam railways, excluding switching and terminal companies*

Item	1938	1937	1936	1935	1934
Miles of road operated	234,423	235,052	235,665	237,289	238,432
RAILWAY OPERATING REVENUES					
January	$279,258,713	$331,707,494	$299,058,328	$264,196,765	$258,014,518
February	251,088,590	321,853,619	300,430,323	254,927,606	248,457,240
March	283,074,963	377,725,321	308,258,178	280,890,306	293,200,600
April	268,268,919	351,506,719	313,366,439	274,663,066	265,405,986
May	272,665,025	352,542,542	320,926,403	279,527,573	282,039,312
June	282,139,794	351,651,223	330,620,688	281,328,059	282,779,494
July	299,641,050	365,085,700	349,670,911	275,307,554	276,009,904
August	315,387,373	359,611,956	350,461,286	293,989,544	282,726,349
September	322,594,889	363,070,851	357,058,213	306,946,095	275,539,654
October		372,925,813	391,301,303	341,039,092	292,910,283
November		318,180,377	358,405,564	301,341,243	256,975,741
December		300,320,821	372,134,405	296,149,464	257,507,786
12 months		[1] 4,166,068,601	[1] 4,051,196,453	[1] 3,450,308,927	[1] 3,271,566,817
RAILWAY OPERATING EXPENSES					
January	$232,710,290	$253,668,741	$231,741,087	$212,402,473	$195,866,223
February	215,411,761	244,080,932	235,875,419	199,585,654	188,605,784
March	229,064,686	266,198,097	236,546,606	212,724,302	209,270,377
April	219,543,059	261,949,013	235,040,412	209,415,791	200,203,269
May	217,112,865	267,225,209	240,201,794	209,260,315	210,028,161
June	218,192,353	265,521,794	241,764,771	216,550,258	208,313,248
July	222,224,232	266,585,650	248,317,688	218,022,451	208,492,885
August	229,631,995	268,190,412	246,199,291	221,353,467	211,085,590
September	232,040,185	262,711,697	248,449,932	218,071,436	203,220,057
October		270,357,354	261,034,653	232,521,776	211,963,280
November		249,295,347	248,174,223	218,651,481	196,986,279
December		243,354,092	257,279,513	225,902,722	194,754,363
12 months		[1] 3,119,064,324	[1] 2,930,170,375	[1] 2,592,368,832	[1] 2,438,789,519
MAINTENANCE OF WAY AND STRUCTURES					
January	$30,610,239	$33,103,794	$30,409,109	$27,695,615	$25,164,083
February	29,310,637	34,231,503	32,408,176	25,564,946	25,125,783
March	32,220,821	37,559,561	34,177,660	27,798,280	28,512,486
April	33,149,544	42,104,234	36,294,158	30,824,724	30,137,916
May	34,316,424	46,607,877	40,752,817	34,649,696	35,053,922
June	36,029,050	48,527,374	42,631,766	37,058,846	35,612,345
July	36,960,600	47,644,140	42,447,321	38,051,067	34,356,187
August	39,859,201	47,702,443	41,903,597	39,113,014	34,197,619
September	41,397,695	45,349,166	42,086,989	36,777,814	31,502,165
October		42,843,518	41,760,624	36,345,159	32,637,405
November		36,519,126	35,859,734	31,410,251	27,666,391
December		33,419,418	33,847,453	29,935,372	25,333,315
12 months		[1] 495,593,048	[1] 454,448,047	[1] 393,813,352	[1] 365,299,619

[1] Includes certain corrections not appearing in monthly figures.

TABLE A–1. —*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1934–38, class I steam railways, excluding switching and terminal companies*—Continued

MAINTENANCE OF EQUIPMENT

Month	1938	1937	1936	1935	1934
January	$58,305,398	$67,808,476	$61,827,605	$55,228,363	$52,695,622
February	54,771,544	64,945,839	62,344,741	53,086,512	50,533,268
March	57,940,972	72,808,266	64,153,449	56,915,874	57,556,955
April	54,882,056	71,254,069	64,227,059	55,278,370	55,124,794
May	53,018,512	71,452,570	63,855,364	57,033,921	56,797,361
June	52,841,566	72,430,105	64,130,608	56,076,421	55,449,801
July	53,006,541	70,657,923	65,506,868	55,828,044	53,916,824
August	55,818,428	70,913,273	64,998,102	55,734,803	53,244,623
September	56,386,442	68,772,597	66,386,688	55,420,760	50,509,476
October		69,575,830	69,644,547	60,942,708	53,106,453
November		65,312,767	66,485,699	58,142,423	50,354,771
December		60,789,043	69,315,874	62,291,600	48,615,664
12 months		[1] 826,710,534	[1] 782,805,609	[1] 681,975,817	[1] 637,905,613

TRANSPORTATION EXPENSES

January	$120,531,495	$127,276,695	$115,580,670	$104,590,316	$96,304,518
February	109,210,676	120,434,591	117,837,396	97,444,250	92,049,397
March	116,390,362	130,485,290	114,654,393	103,544,164	101,642,426
April	109,560,901	123,373,180	110,899,431	102,258,211	93,589,066
May	107,883,003	123,898,837	111,863,803	103,195,616	96,587,481
June	107,411,590	121,642,652	110,672,874	101,343,297	95,237,751
July	110,334,196	125,236,390	115,665,172	102,069,242	97,896,996
August	112,226,736	126,685,540	115,536,442	104,179,112	98,822,396
September	112,667,131	125,853,694	116,168,525	103,868,344	96,659,365
October		135,118,146	125,543,321	112,684,955	101,400,074
November		124,587,737	121,770,077	106,909,075	95,597,925
December		125,717,363	128,929,359	110,841,941	98,278,441
12 months		[1] 1,510,273,424	[1] 1,404,934,801	[1] 1,252,889,580	[1] 1,164,065,840

NET RAILWAY OPERATING INCOME [2]

January	$6,919,888	$38,866,838	$35,728,531	$21,934,644	$31,058,276
February	*2,122,095*	38,783,618	33,562,340	26,296,412	29,420,777
March	14,470,444	69,881,244	35,152,475	38,129,871	52,217,080
April	9,236,817	48,357,724	41,493,455	34,708,718	32,433,940
May	16,496,701	44,239,456	41,797,047	39,598,511	39,699,193
June	25,000,803	59,354,317	50,258,672	34,102,703	42,037,758
July	38,387,209	60,985,276	61,722,346	26,919,343	35,441,264
August	45,376,622	50,756,743	64,636,594	42,156,706	40,564,069
September	50,361,753	59,621,184	70,096,166	57,349,265	41,713,426
October		60,747,446	89,809,372	75,454,501	49,336,307
November		32,440,920	72,376,522	54,224,290	32,540,505
December		25,971,526	70,505,536	46,020,696	39,225,994
12 months		[1] 590,180,565	[1] 667,174,165	[1] 499,001,612	[1] 465,688,588

[1] Includes certain corrections not appearing in monthly figures.
[2] For meaning of this term see table V, footnote 2. Deficit in italics.

TABLE A–2.—*Other income and deductions, by months 1934–38, class I steam railways, excluding switching and terminal companies*

OTHER INCOME

Month	1938	1937	1936	1935	1934
January	$12,733,141	$12,066,447	$12,015,807	$12,343,875	$13,738,086
February	10,443,363	11,008,239	10,063,893	11,536,344	12,158,164
March	10,572,306	10,741,794	12,033,251	13,563,477	14,641,419
April	10,584,332	10,546,362	11,896,197	13,182,312	13,237,600
May	11,566,504	11,428,973	11,416,636	11,653,854	13,346,790
June	12,688,409	15,585,908	14,720,025	16,200,992	21,075,926
July	11,552,897	13,497,062	12,656,741	12,336,382	14,467,099
August	11,172,638	11,057,193	11,343,067	11,154,287	12,889,800
September		11,058,436	11,981,493	11,844,577	13,398,438
October		10,369,096	11,510,391	11,991,571	13,371,466
November		15,664,172	12,485,263	11,202,905	12,514,091
December		40,130,030	41,547,629	34,276,635	29,034,854
12 months		[1] 179,307,977	[1] 184,343,328	[1] 171,211,606	[1] 184,851,813

INTEREST, RENTS, AND OTHER DEDUCTIONS

January	$53,141,910	$55,418,397	$55,525,334	$55,666,141	$56,381,700
February	52,888,330	54,787,968	55,208,098	55,662,605	55,928,349
March	53,255,180	55,734,195	55,398,374	55,855,016	56,227,923
April	53,304,229	55,080,386	55,582,236	56,057,943	56,399,850
May	53,565,699	54,346,482	55,522,139	55,920,357	56,383,253
June	53,643,441	56,580,449	55,974,315	55,657,702	56,936,045
July	53,895,513	55,287,370	54,971,080	55,217,099	56,642,997
August	55,452,560	54,573,112	54,999,804	55,615,994	56,280,895
September		54,153,882	55,596,064	55,558,864	56,291,027
October		53,921,615	54,734,302	56,065,546	56,449,457
November		54,670,929	54,667,901	55,447,657	56,462,181
December		60,154,451	62,903,531	58,649,067	58,646,600
12 months		[1] 670,961,825	[1] 686,033,959	[1] 671,587,317	[1] 679,978,864

NET INCOME [2]

January	*$23,475,907*	*$4,502,006*	*$7,780,994*	*$21,389,720*	*$11,585,335*
February	*44,567,055*	*4,996,113*	*11,581,866*	*17,829,851*	*14,349,408*
March	*28,212,429*	24,888,844	*8,212,646*	*4,161,666*	10,630,572
April	*33,483,079*	3,823,704	*2,192,536*	*8,166,910*	*10,728,312*
May	*25,502,501*	1,321,939	*2,308,455*	*4,667,992*	*3,337,269*
June	*15,954,225*	18,359,775	9,004,383	*5,354,012*	6,177,638
July	*3,955,405*	19,194,965	19,411,612	*15,961,373*	*6,734,635*
August	1,096,693	7,240,823	20,979,856	*2,304,998*	*2,827,109*
September		16,209,508	26,481,594	13,634,976	*1,179,163*
October		17,194,927	46,585,462	31,380,529	6,258,314
November		*6,565,838*	30,193,883	9,979,535	*11,407,487*
December		5,947,105	49,149,632	21,648,268	9,614,249
12 months		[1] 98,526,717	[1] 165,483,528	[1] *1,374,094*	[1] *29,438,445*

[1] Includes certain corrections not appearing in monthly figures.
[2] Deficit in italics.

TABLE B.—*Analysis of operating revenues and expenses, class I steam railways, excluding switching and terminal companies, 1936–38*

Item	9 months, January to September, inclusive		Calendar year—	
	1938	1937	1937	1936
Operating revenues:				
Freight	$2,048,860,383	$2,580,960,145	$3,377,908,423	$3,307,123,748
Passenger	306,299,343	334,048,245	442,809,306	412,365,686
Mail	69,086,340	71,166,146	97,983,881	95,542,683
Express	33,948,876	43,584,569	57,682,928	60,180,925
All other	115,836,867	144,882,484	189,684,063	175,983,411
Total	2,574,031,809	3,174,641,589	4,166,068,601	4,051,196,453
Percent of total:				
Freight	79.60	81.30	81.08	81.63
Passenger	11.90	10.52	10.63	10.18
Mail	2.68	2.24	2.35	2.36
Express	1.32	1.37	1.39	1.49
All other	4.50	4.57	4.55	4.34
Operating expenses:				
Maintenance-of-way and structures	$313,833,742	$382,810,988	$495,593,048	$454,448,047
Maintenance of equipment	496,960,797	631,032,894	826,710,534	782,805,609
Traffic	76,791,719	78,743,757	105,478,279	100,038,347
Transportation	1,006,181,040	1,124,850,179	1,510,273,424	1,404,934,801
General	96,010,881	111,614,325	145,344,911	157,184,874
All other	26,080,561	27,005,388	35,664,128	30,758,697
Total	2,015,858,740	2,356,057,531	3,119,064,324	2,930,170,375
Percent of total:				
Maintenance-of-way and structures	15.57	16.25	15.89	15.51
Maintenance of equipment	24.65	26.78	26.51	26.72
Traffic	3.81	3.34	3.38	3.41
Transportation	49.92	47.74	48.42	47.95
General	4.76	4.74	4.66	5.36
All other	1.29	1.15	1.14	1.05
Railway tax accruals	$255,625,988	$249,224,346	$325,689,094	$319,701,180
Equipment rents—debit	70,966,744	71,105,328	95,020,922	94,436,437
Joint facility rent—debit	26,506,680	27,424,879	36,113,696	39,714,296
Net railway operating income	205,073,657	470,829,505	590,180,565	667,174,165

TABLE C.—*Ton-miles of freight (revenue and nonrevenue), by months, 1934–38, class I steam railways*

Month	1938	1937	1936	1935	1934
	Millions	*Millions*	*Millions*	*Millions*	*Millions*
January	26,404	33,138	27,857	24,967	23,771
February	23,182	32,218	29,151	24,124	23,199
March	26,030	36,655	27,995	27,598	27,796
April	22,789	32,261	28,143	23,340	23,475
May	23,706	34,090	29,894	24,672	25,262
June	23,886	31,848	28,757	25,951	25,208
July	26,312	33,745	31,131	23,174	24,260
August	27,426	33,699	32,091	25,938	25,405
September	29,110	34,862	33,047	27,731	25,889
October	----------	36,760	37,143	31,218	26,504
November	----------	29,096	33,859	27,482	23,785
December	----------	27,422	33,972	26,180	23,102
12 months	----------	[1] 395,799	[1] 373,009	[1] 312,387	[1] 297,656

[1] Includes certain corrections not appearing in monthly figures.

TABLE D.—*Selected operating averages in freight and passenger service of class I steam railways in the United States, 1936–38*

Item	8 months, January to August, inclusive		Calendar year—	
	1938	1937	1937	1936
Average miles of road included	233,247	234,127	233,971	234,687
Net ton-miles per mile of road per day	3,524	4,705	4,635	4,343
Percent of freight locomotives unserviceable	28.9	25.8	25.5	30.5
Percent of freight cars unserviceable	11.5	10.1	10.1	12.8
Percent loaded of total car-miles	61.7	63.7	63.0	63.1
Percent east-bound or north-bound of loaded car-miles	59.1	57.2	57.5	57.8
Car-miles per car-day	26.8	32.6	32.9	30.7
Net ton-miles per car-day	426	561	562	519
Net ton-miles per loaded car-mile	25.7	27.0	27.1	26.8
Car-miles per train-mile	46.4	46.3	46.6	45.8
Gross ton-miles per train-mile (excluding locomotives and tenders)	1,856	1,894	1,902	1,860
Net ton-miles per train-mile (including nonrevenue tons)	736	797	796	774
Average miles per hour, trains in freight service	16.7	16.1	16.1	15.8
Pounds of coal per 1,000 gross ton-miles (including locomotives and tenders)	117	118	118	121
Average cost of coal per ton (including freight charges)	$2.53	$2.41	$2.43	$2.34
Revenue per ton-mile	$0.00983	$0.00939	$0.00935	$0.00975
Average haul per revenue ton per railroad	210.9	197.8	198.0	198.5
Number of freight-train miles	273,551,768	339,057,502	502,012,533	486,255,003
Number of passenger-train miles	264,376,342	278,394,095	416,477,178	404,680,614
Number of passenger-train car-miles	1,903,248,684	2,001,326,029	3,004,391,244	2,841,262,632
Passenger-train cars per train	7.2	7.2	7.9	7.7
Revenue per passenger per mile:				
Including commutation passengers	$0.0185	$0.0178	$0.0179	$0.0184
Excluding commutation passengers	$0.0204	$0.0194	$0.0195	$0.0202

TABLE E.—*Average number of employees and total compensation, by groups of employees, 8 months, January to August, inclusive, class I steam railways, excluding switching and terminal companies*

Groups of employees	8 months, January to August, inclusive			
	Average number of employees middle of month		Total compensation	
	1938	1937	1938	1937
			Thousands	*Thousands*
I. Executives, officials, and staff assistants	12,036	12,304	$46,568	$46,991
II. Professional, clerical, and general	163,957	176,148	212,355	216,591
III. Maintenance of way and structures	181,529	238,163	150,782	181,224
IV. Maintenance of equipment and stores	235,968	320,408	258,938	346,618
V. Transportation (other than train, engine, and yard)	122,752	135,064	133,723	137,015
VI (a). Transportation (yardmasters, switch tenders, and hostlers)	12,118	13,560	19,881	21,298
VI (b). Transportation (train and engine service)	200,367	237,964	320,781	373,273
All employees	928,727	1,133,611	1,143,028	1,323,010

TABLE F.—*Carloads and tons of commodities originated and freight revenue, by commodity groups, calendar year 1937, class I steam railways*

Commodity groups	Number of carloads	Number of tons (2,000 pounds)	Freight revenue
Products of agriculture	3,431,641	89,459,863	$483,614,696
Animals and products	1,210,508	15,232,968	154,714,140
Products of mines	10,740,215	569,745,359	1,023,334,901
Products of forests	1,908,787	58,657,773	221,890,782
Manufactures and miscellaneous	9,884,529	265,301,846	1,367,660,621
Grand total, carload traffic	27,175,680	998,397,809	3,251,215,140
All l. c. l. freight	----------	17,188,219	262,485,622
Grand total, carload and l. c. l. traffic	----------	1,015,586,028	3,513,700,762

TABLE G.—*Summary of casualties to persons on steam railways in the United States for the years ended Dec. 31, 1937, 1936, 1935, 1934, and 1933*

Class of persons	Number of persons									
	1937		1936		1935		1934		1933	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1. Trespassers	2,515	2,289	2,666	2,410	2,643	2,690	2,566	2,781	2,747	3,591
2. Employees:										
Trainmen on duty	368	8,152	365	7,946	282	6,018	281	6,079	268	5,772
Other employees	189	1,142	228	1,075	184	744	154	724	152	694
Total employees	557	9,294	593	9,021	466	6,762	435	6,803	420	6,466
3. Passengers on trains	18	2,508	17	2,451	18	1,872	27	1,870	38	1,972
4. Travelers not on train	9	79	15	89	7	68	8	70	10	84
5. Persons carried under contract	5	337	8	315	3	237	4	317	4	345
6. Other nontrespassers	2,014	5,642	1,875	5,306	1,752	4,962	1,612	4,605	1,597	4,014
Total, train and train-service accidents (1 to 6)	5,118	20,149	5,174	19,592	4,889	16,591	4,652	16,446	4,816	16,472
7. Casualties in non-train accidents	232	16,543	224	15,114	218	11,489	227	12,185	203	11,022
Total, 1 to 7	5,350	36,692	5,398	34,706	5,107	28,080	4,879	28,631	5,019	27,494
8. Casualties at grade crossings [1]	1,875	5,136	1,786	4,930	1,680	4,658	1,554	4,300	1,511	3,697
9. Casualties excluded from all totals [2]	152	21	152	17	151	28	141	10	161	22

[1] Included in total for items 1 to 6, and distributed under various heads, chiefly item 6.
[2] Figures relate to suicides, persons mentally deranged, and persons attempting to escape custody.

APPENDIX D

LIST OF REPORTED RATE AND VALUATION CASES

[Volumes included; 223 (balance); 225; 226; 227 (part); 3 M. C. C.; 4 M. C. C.; 6 M. C. C.; 7 M. C. C.; 8 M. C. C. (part); 47 Val. Rep. (balance); 48 Val. Rep. (part).]

Acme Fast Freight, Inc., *v.* Delaware, L. & W. R. Co., 225 I. C. C. 379.
Aeolian American Corp. *v.* Central R. Co. of New Jersey, 223 I. C. C. 606.
Aeolian American Corp. *v.* New York, N. H. & H. R. Co., 225 I. C. C. 453.
A. E. Staley Mfg. Co. *v.* Wabash Ry. Co., 227 I. C. C. 483.
Air Mail Rates for American Airlines, Inc., 225 I. C. C. 12.
Air Mail Rates for Braniff Airways, Inc., 226 I. C. C. 752.
Air Mail Rates for Route No. 8, 227 I. C. C. 509.
Alabama Oil Co. of Hollywood, Inc., *v.* Alabama G. S. R. Co., 223 I. C. C. 590.
Alcohol to Boston and Providence, 225 I. C. C. 411.
All Freight between Boston & M. R. Points, 226 I. C. C. 387.
All Freight from Chicago and St. Louis to Birmingham, 226 I. C. C. 455.
Allen & Wheeler Co. *v.* Akron, C. & Y. Ry. Co., 225 I. C. C. 179.
Allowance for Driving Horses at Miles City, Mont., 227 I. C. C. 387.
American Agricultural Chemical Co. *v.* Aberdeen & R. R. Co., 225 I. C. C. 610.
American Airlines, Inc., Detroit-Cincinnati Operation, 225 I. C. C. 333.
American Fruit Growers, Inc., *v.* Alabama G. S. R. Co., 227 I. C. C. 139.
American Oil Co. *v.* Pennsylvania R. Co., 226 I. C. C. 189.
American Valve Co. *v.* New York, N. H. & H. R. Co., 226 I. C. C. 697.
Anthracite Coal from Pennsylvania Mines to Rutland, Vt., 223 I. C. C. 524.
Application of Carter, In re, 225 I. C. C. 559.
Application of Ewell, In re, 225 I. C. C. 573.
Arizona Sand & Rock Co. *v.* Atchison, T. & S. F. Ry. Co., 225 I. C. C. 127.
Arkana Transit Corp., 47 Val. Rep. 687.
Arkansas Pipeline Corp., 48 Val. Rep. 18.
Armour & Co. *v.* Chicago, M., St. P. & P. R. Co., 226 I. C. C. 645.
Armour & Co. of Delaware *v.* Erie R. Co., 227 I. C. C. 177.
Artkraft Sign Co. *v.* Pennsylvania R. Co., 225 I. C. C. 500.
Arundale & Gates *v.* Norfolk & W. Ry. Co., 227 I. C. C. 348.
Atlantic Foundry Co. *v.* Chicago, B. & Q. R. Co., 225 I. C. C. 643.
Atlantic Pipe Line Co., 47 Val. Rep. 541.
Atlas Pipe Line Co., Inc., 47 Val. Rep. 800.
Automobiles and Chassis to Chicago, Ill., 227 I. C. C. 223.
Automobiles from Dallas, Tex., 226 I. C. C. 705.
Automobiles from Evansville, Ind., 227 I. C. C. 693.
Automobiles to Southern Ports for Export, 225 I. C. C. 225.
Bags and Bagging from New Orleans, La., to Oklahoma, 225 I. C. C. 320.
Baltimore Steam Packet Co. Rates, 226 I. C. C. 635.
Bamberger Electric R. Co. *v.* Lang Transp. Corp., 8 M. C. C. 200.
Barber Construction Co. *v.* Michigan Central R. Co., 225 I. C. C. 451.
Beaufort & M. R. Rates, 227 I. C. C. 272.
Belt R. & Stock Yards Co. *v.* Alton R. Co., 225 I. C. C. 649.
Beverages and Beverage Containers in the East, 227 I. C. C. 173.
B. Farris & Son *v.* Baltimore & O. R. Co., 226 I. C. C. 372.
Bibb Mfg. Co. *v.* Louisville & N. R. Co., 225 I. C. C. 341.
Bituminous Coal to Sioux City, Iowa, 225 I. C. C. 112.
Block Tin from New York and Norfolk to Winston-Salem, 225 I. C. C. 459.
Bones from and to Points in United States, 225 I. C. C. 471.
Borden Co. *v.* Baltimore & O. R. Co., 227 I. C. C. 664.

Brick in Official Territory, 223 I. C. C. 514.
Brown *v.* Union Pac. R. Co., 225 I. C. C. 309.
Brownsville Nav. District *v.* St. Louis, B. & M. Ry. Co., 225 I. C. C. 246.
Buffalo Crushed Stone Co. *v.* Arcade & A .R. Corp., 226 I. C. C. 309.
Building Paper from Dallas, Tex., 225 I. C. C. 705.
Bull Dog Flour Clip Co. *v.* Chicago, R. I. & P. Ry. Co., 225 I. C. C. 313.
Bunker Coal from Alabama Mines to Gulf Ports, 227 I. C. C. 485.
Canadian Pac. Ry. Co. Application, 225 I. C. C. 81.
Cans from Baltimore, Md., to Bridgeton, N. J., 227 I. C. C. 391.
Car Ferry Rates of Pennsylvania R., 226 I. C. C. 631.
Carbon Black from and to Points in United States, 226 I. C. C. 278.
Carolina Veneer Co., Inc., *v.* Chesapeake & O. Ry. Co., 226 I. C. C. 170.
Cement from Neville Island and Universal, Pa., to Pittsburgh, 227 I. C. C. 635.
Cement to Central Vermont Ry. Points, 227 I. C. C. 300.
Central Ferry Warehouse Co. *v.* Camas Prairie R. Co., 227 I. C. C. 625.
Central Foundry Co. *v.* Louisville & N. R. Co., 225 I. C. C. 397.
C. Findeiss Sons Co. *v.* Baltimore & O. R. Co., 225 I. C. C. 782.
Champion Pants Mfg. Co., Inc., *v.* Lehigh Valley R. Co., 227 I. C. C. 263.
Charles Ilfeld Co. *v.* Southern Pac. S. S. Lines, 227 I. C. C. 291.
Cheese to North Pacific Coast Points, 226 I. C. C. 720.
Chicago & S. Air Lines, Inc., Rate Reviews 1935–36, 223 I. C. C. 535.
Cicardi Bros. Fruit & Produce Co. *v.* Atlantic Coast Line R. Co., 227 I. C. C. 67.
Cincinnati & L. E. R. Fares and Charges, 227 I. C. C. 7.
Citrus Fruit from Florida to North Atlantic Ports, 226 I. C. C. 315.
City of Sheboygan, Wis., *v.* Chicago & N. W. Ry. Co., 227 I. C. C. 472.
Class and Commodity Rates in Pacific Southwest, 225 I. C. C. 287.
Clay from the South, 227 I. C. C. 351.
Coal from and to Points in Iowa, 225 I. C. C. 222.
Coal from Meyersdale District to Niagara Frontier, 227 I. C. C. 533.
Coal from Norfolk & W. Ry. Extensions, 223 I. C. C. 597.
Coal to Buffalo, Rochester, and Salamanca, N. Y., 227 I. C. C. 525.
Coal to Charleston, S. C., and Brunswick, Ga., 223 I. C. C. 577.
Coal to Hagerstown and Security, Md., 227 I. C. C. 303.
Coal to Harlem River, N. Y., 223 I. C. C. 511.
Coal to Winona, Minn., 223 I. C. C. 1, 225 I. C. C. 441.
Coffee, Roasted, in the Southeast, 225 I. C. C. 271.
Coke from Indianapolis, Ind., 225 I. C. C. 679.
Coke to Palmerton, Pa., 227 I. C. C. 269.
Colonial Baking Co. of Des Moines *v.* Railway Exp. Agency, Inc., 227 I. C. C. 573.
Columbian Paper Co. *v.* Norfolk & W. Ry. Co., 225 I. C. C. 630, 227 I. C. C. 373.
Columbus Coated Fabrics Corp. *v.* Cleveland, C., C. & St. L. Ry. Co., 226 I. C. C. 191.
Commodities between Chicago, Ill., and Twin Cities, 226 I. C. C. 356.
Commodity Rates of Oklahoma & T. Transfer Co., 6 M. C. C. 259.
Commodity Rates on Great Northern Ry., 225 I. C. C. 421.
Compton *v.* Atchison, T. & S. F. Ry. Co., 225 I. C. C. 462.
Consolidated Southwestern Cases, 227 I. C. C. 669.
Constitution Stone Co. *v.* Baltimore & O. R. Co., 227 I. C. C. 673.
Continental Pipe Line Co., 48 Val. Rep. 39.
Cooperative G. L. F. Mills, Inc., *v.* Chicago, B. & Q. R. Co., 227 I. C. C. 682.
Copper from Western Territory to the East, 227 I. C. C. 613.
Copper Products to New York Points, 225 I. C. C. 425.
Cordage from Houston, Tex., 225 I. C. C. 668.
Cordage from New Orleans and Port Chalmette, La., 223 I. C. C. 611.
Cordage Oil to New Bedford and North Plymouth, Mass., 227 I. C. C. 462.
Cotton from West Texas to Gulf Ports, 227 I. C. C. 415.
Cottonseed, Its Products, and Related Articles, 225 I. C. C. 257.
Crancer and Fleischman *v.* Abilene & S. Ry. Co., 225 I. C. C. 319.
Creamery Package Mfg. Co. *v.* Alton R. Co., 227 I. C. C. 322.
Crude Sulphur to Rochester, N. Y., 225 I. C. C. 711.
Davis *v.* Pennsylvania R. Co., 226 I. C. C. 723.
Delta Air Corp. Rate Review, 1937, 225 I. C. C. 738.
Dutchess Hat Works, Inc., *v.* Reading Co., 226 I. C. C. 184.
Eastbound Perishables in Unauthorized Containers, 225 I. C. C. 293.
Eastern Passenger Fares, 227 I. C. C. 232.
Eastern Passenger Fares in Coaches, 227 I. C. C. 17; 227 I. C. C. 685.

E. I. du Pont de Nemours & Co., Inc., *v.* Boston & M. R., 225 I. C. C. 278.
Ely Distributing Co. *v.* Bamberger Electric R. Co., 227 I. C. C. 162.
E. Rauh & Sons Fertilizer Co. *v.* Alton & E. R. Co., 223 I. C. C. 765.
Estate of Corcoran *v.* Pennsylvania R. Co., 225 I. C. C. 701.
Export and Import Rates from and to Gulf Ports, 227 I. C. C. 61.
Export Bills of Lading Rules in South, 227 I. C. C. 365.
Fares between Bergen County, N. J., and New York, N. Y., 6 M. C. C. 25.
Farmers Union Supply Co. *v.* Atchison, T. & S. F. Ry. Co., 226 I. C. C. 233.
F. Burkart Mfg. Co. *v.* Baltimore & O. R Co., 225 I. C. C. 140.
Fertilizer Compounds in Bulk in the South, 225 I. C. C. 423.
Fetterman *v.* Alabama G. S. R. Co., 225 I. C. C. 735.
Fifteen Percent Case, 1937–1938, 226 I. C. C. 41, 226 I. C. C. 746.
Firebrick in Central Territory, 225 I. C. C. 443.
Fisher Bros. Co. *v.* Atlantic Coast Line R. Co., 223 I. C. C. 639.
Fitzgerald Mfg. Co. *v.* New York, N. H. & H. R. Co., 226 I. C. C. 692.
Floyd-Wells Co. *v.* New York Central R. Co., 227 I. C. C. 267.
Folding Furniture Works, Inc., *v.* Minneapolis, St. P. & S. S. M. Ry. Co., 227 I. C. C. 159.
Forcum-James Co., Inc., *v.* Illinois Central R. Co., 226 I. C. C. 384.
F. P. Creaser & Sons *v.* Chicago & N. W. Ry. Co., 223 I. C. C. 775.
Franklin County Sugar Co. *v.* Bamberger Electric R. Co., 227 I. C C. 297.
Fresh Vegetables from Louisiana to Canada, 223 I. C. C. 521.
Fruits, Vegetables, and Hay in Official Territory, 227 I. C. C. 210.
Fuel Oil from South Atlantic and Virginia Ports, 227 I. C. C. 465.
Fuel Sales Corp. *v.* Delaware, L. & W. R. Co., 225 I. C. C. 288.
Fulton Bag & Cotton Mills *v.* Atchison, T. & S. F. Ry. Co., 223 I. C. C. 779.
Fulton Bag & Cotton Mills *v.* Atchison, T. & S. F. Ry. Co., 226 I. C. C. 353.
General Box Co. *v.* Louisville & N. R. Co., 223 I. C. C. 649.
General Commodity Rate Increases, 1937, 223 I. C. C. 657.
George K. Hale Mfg. Co. *v.* Atlantic Coast Line R. Co., 225 I. C. C. 101.
Georgia Public Service Comm. *v.* Alabama G. S. R. Co., 227 I. C. C. 375.
Globe Brewing Co. *v.* Pennsylvania R. Co., 226 I. C. C. 1.
Globe Grain & Milling Co. *v.* Chicago, B. & Q. R. Co., 225 I. C. C. 267.
Globe Pipe Line Co., 48 Val. Rep. 1.
Glue Stock from Memphis, Tenn., 226 I. C. C. 494.
Gohn *v.* Baltimore & O. R. Co., 225 I. C. C. 133.
Goldblatt Bros., Inc., *v.* Boston & A. R. Co., 223 I. C. C. 647.
Goulds Pumps, Inc., *v.* Lehigh Valley R. Co., 227 I. C. C. 385.
Grain and Grain Products to Chicago, Ill., 223 I. C. C. 529.
Grain from Missouri to Milwaukee, Wis., 227 I. C. C. 133.
Grain from Texas to New Orleans for Export, 225 I. C. C. 401.
Grain from Western Trunk Line Points to Omaha, Nebr., 223 I. C. C. 780, 227 I. C. C. 203.
Grain in Minnesota, 226 I. C. C. 608.
Grand Forks Commercial Club *v.* Ahnapee & W. Ry. Co., 227 I. C. C. 605.
Granite Bituminous Paving Co. *v.* Pennsylvania R. Co., 227 I. C. C. 679.
Great Atlantic & Pacific Tea Co. *v.* Alton R. Co., 226 I. C. C. 398.
Great Falls Traffic Assn. *v.* Chicago, B. & Q. R. Co., 226 I. C. C. 467.
Great Lakes Coal & Coke Co. *v.* Alton R. Co., 223 I. C. C. 624, 226 I. C. C. 377.
Great Lakes Coal & Coke Co. *v.* Atchison, T. & S. F. Ry. Co., 227 I. C. C. 452.
Great Western Sugar Co. *v.* Chicago, B. & Q. R. Co., 226 I. C. C. 642.
Guess *v.* Atchison, T. & S. F. Ry. Co., 225 I. C. C. 61.
Gulf Pipe Line Co., 47 Val. Rep. 752.
Guy F. Atkinson Co. *v.* Oregon-W. R. & Nav. Co., 223 I. C. C. 563.
G. W. Capps Produce Corp. *v.* Norfolk S. R. Co., 225 I. C. C. 77.
Hallet & Carey Co. *v.* Chicago, St. P., M. & O. Ry. Co., 227 I. C. C. 457.
Hand Vehicles from Tennessee and Georgia to South, 225 I. C. C. 167.
Hanford Airlines, Inc. Rate Review 1934–1937, 227 I. C. C. 593.
Hansen & Jensen Oil Co. *v.* Alton & S. R., 227 I. C. C. 219.
Harriet Cotton Mills *v.* Gulf, M. & N. R. Co., 223 I. C. C. 653.
Henry Lauhoff Cereal Mills *v.* Grand Trunk W. R. Co., 225 I. C. C. 776.
H. G. Miles & Co. *v.* Atlantic Coast Line R. Co., 225 I. C. C. 703.
Hood *v.* Norfolk & W. Ry. Co., 225 I. C. C. 565.
Hooven & Allison Co. *v.* Baltimore & O. R. Co., 225 I. C. C. 456.
Hygrade Food Products Corp *v.* Wabash Ry. Co., 227 I. C. C. 306.
Illinois Central R. Co. Application in re Ocean S. S. Co., 226 I. C. C. 245.

Rates over Carpet City Trucking, 4 M. C. C. 589.
Rates over Freight Forwarders, Inc., 4 M. C. C. 68.
Rating on Cowpeas, L. C. L., in Southern Classification, 225 I. C. C. 490.
Receipt and Delivery Service at Eastern Ports, 225 I. C. C. 789, 227 I. C. C. 317.
Red Star Milling Co. *v.* Aberdeen & R. R. Co., 226 I. C. C. 289.
Refrigerator Material from Memphis, Tenn., to Dayton, Ohio, 4 M. C. C. 187.
Regulations for Transportation of Explosives, 225 I. C. C. 607.
Regulations for Transportation of Explosives, 226 I. C. C. 673.
Regulations for Transportation of Explosives, 227 I. C. C. 661.
Road Building Material from Tampa, Fla., 227 I. C. C. 185.
Robinson Canning Co. *v.* DeQueen & E. R. Co., 225 I. C. C. 103.
Robinson Clay Product Co. *v.* Baltimore & O. Ry. Co., 227 I. C. C. 449.
Rochester & Pittsburgh Coal Co. *v.* Baltimore & O. R. Co., 226 I. C. C. 265.
Rock Salt from Retsof and Ludlowville, N. Y., 226 I. C. C. 699.
Rock Salt to Hopewell, Va., 227 I. C. C. 407.
Roofing Material to Columbia, S. C., 225 I. C. C. 593.
Ross & Christman *v.* Texas & P. Ry. Co., 223 I. C. C. 574.
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Routing Vegetables from Georgia, A. & S. C. Ry. via Georgia & F. R., 226 I. C. C. 749.
Royal Crystal Salt Co. *v.* American Transp. Co., 227 I. C. C. 9.
Rules Governing Stocker or Feeder Cattle Rates, 225 I. C. C. 684.
St. Joseph Belt Ry. Co. Accounting, 227 I. C. C. 394.
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Scrap via Harrison Transfer Service, 4 M. C. C. 442.
Seatrain Lines, Inc., *v.* Akron, C. & Y. Ry. Co., 226 I. C. C. 7.
Sewer Pipe and Wall Coping from Pennsylvania, 225 I. C. C. 415.
Shell Pipe Line Corp., 47 Val. Rep. 702.
Shoes from Jacksonville, Fla., to Quitman, Ga., 225 I. C. C. 732.
Shrimp from the South to Eastern Cities, 226 I. C. C. 169.
Silk and Silk Products between Eastern Points, 3 M. C. C. 657.
Sinclair Prairie Pipe Line Co., 47 Val. Rep. 613.
Smith Bros. Construction Corp. *v.* Chicago, M., St. P. & P. R. Co., 227 I. C. C. 51.
Smith Rates on Paper, 6 M. C. C. 603.
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Soap and Soap Powders in the Southwest, 227 I. C. C. 469.
Soap from Boston, Mass., to Philadelphia, Pa., 225 I. C. C. 505.
Soap in Western Trunk Line Territory, 226 I. C. C. 743.
Sonken-Galamba Corp. *v.* Chicago & A. R. Co., 225 I. C. C. 767.
South Chicago Coal & Dock Co. *v.* Chicago Short Line Ry. Co., 223 I. C. C. 619.
South Dakota Independent Oil Men's Assn. *v.* Abilene & S. Ry. Co., 225 I. C. C. 719.
South Dakota R. Commrs. *v.* Baltimore & O. R. Co., 226 I. C. C. 611.
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Southwestern Millers' League *v.* Atchison, T. & S. F. Ry. Co., 225 I. C. C. 195.
Soya Bean Meal to Pacific Coast Ports, 225 I. C. C. 51.
Spartan Refining Co., Inc., 47 Val. Rep. 825.
S. S. Steiner, Inc., *v.* Northern Pac. Ry. Co., 227 I. C. C. 434.
Stanolind Pipe Line Co. *v.* Alton R. Co., 225 I. C. C. 693, 227 I. C. C. 619.
Stevens Bros. *v.* Northern Pac. Ry. Co., 225 I. C. C. 556.
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Stout *v.* Alton R. Co., 227 I. C. C. 281.
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Straight Line Engine Co., Inc., *v.* Delaware, L. & W. R. Co., 226 I. C. C. 428.
Strong-Scott Mfg. Co. *v.* Akron, C. & Y. Ry. Co., 225 I. C. C. 797.
Struthers Wells-Titusville Corp. *v.* Illinois Central R. Co., 223 I. C. C. 595.
Substitution of Cotton at New Orleans from Louisiana Points, 225 I. C. C. 151.
Sugar from Wheatley, Ark., to Arkansas Points, 227 I. C. C. 431.
Summer & Co. *v* Pennsylvania R. Co., 225 I. C. C. 513.
Surpass Leather Co. *v.* Fonda, J. & G. R. Co., 225 I. C. C. 163.
Swift & Co. *v.* Akron, C. & Y. Co., 226 I. C. C. 709.
Swift & Co. *v.* Atchison, T. & S. F. Ry. Co., 227 I. C. C. 579.
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Switching Rates in Chicago Switching District, 225 I. C. C. 75.

Taylor Produce Co. *v.* Nashville, C. & St. L. Ry., 225 I. C. C. 135.
Texas Steel Co. *v.* Missouri-K. T. R. Co., 225 I. C. C. 337.
Thomas Keery Co., Inc., *v.* New York, O. & W. Ry. Co., 226 I. C. C. 335.
Tobacco and Cigarettes to Oklahoma City, Okla., 225 I. C. C. 727.
Tobacco to Houston, Tex., 227 I. C. C. 309.
Transit Grain in St. Louis District, 223 I. C. C. 556.
Transit Lumber from Pacific Coast to Eastern Destinations, 227 I. C. C. 189.
Tung Nut Pomace from and to the South, 227 I. C. C. 56.
Union Fork & Hoe Co. *v.* Seaboard Air Line Ry. Co., 225 I. C. C. 468.
Valvoline Oil Co. Petition in Valuation of Pipe Lines, 48 Val. Rep. 10.
Victor Lynn Transp. Co. Rates, 227 I. C. C. 535.
Virginia Lime Products Co., Inc., *v.* Chesapeake & O. Ry. Co., 226 I. C. C. 193.
Wabash Roller Mill Co. *v.* Chicago, M. St. P. & P. R. Co., 227 I. C. C. 562.
Wallboard between Southern and Official Territories, 227 I. C. C. 235.
Wallpaper from Worcester, Mass., 225 I. C. C. 674.
Walter Brewing Co. *v.* Union Pac. R. Co., 225 I. C. C. 760.
Waste Material Dealers Assn. *v.* Chicago, R. I. & P. Ry. Co., 226 I. C. C. 683.
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Weaver Pants Corp. *v.* Alabama G. S. R. Co., 223 I. C. C. 566.
West Plains Garment Co. *v.* St. Louis-S. F. Ry. Co., 225 I. C. C. 131.
Western Air Exp. Corp. Rate Review, 1935–1936, 225 I. C. C. 743.
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Westinghouse Electric Supply *v.* Alton & S. R., 226 I. C. C. 367.
Wigginton *v.* Chicago & N. W. Ry. Co., 227 I. C. C. 41.
William E. Friedman Co., Inc., *v.* Reading Co., 223 I. C. C. 645.
Wilmington Provision Co. *v.* Pennsylvania R. Co., 226 I. C. C. 236.
Window Glass from the Southwest, 223 I. C. C. 532.
Winner *v.* Pennsylvania R. Co., 227 I. C. C. 5.
Wisconsin Retail Lumbermens Assn. *v.* Ann Arbor R. Co., 227 I. C. C. 423.
Wishnatzki & Nathel *v.* Railway Exp. Agency, Inc., 226 I. C. C. 637.
Wood & Selick, Inc., *v.* Western Pac. R. Co., 226 I. C. C. 239.
Wood Pulp from Houston, Tex., to Hamilton, Ohio, 225 I. C. C. 429.
Wood Pulp from Lake Ports to Michigan and Indiana, 223 I. C. C. 631.
Wood Pulp from Plymouth, N. C., 225 I. C. C. 465.
Wood Pulp from Savannah, Ga., to Hudson Falls, N. Y., 226 I. C. C. 242.
Wood Pulp to Fredericksburg, Va., 227 I. C. C. 570.
Wooden Boxes in Official Territory, 226 I. C. C. 669.
Wooden Piling to New Boston, Ill., 223 I. C. C. 527.
Wyoming Air Service, Inc., Rate Review, 1934–1936, 225 I. C. C. 1.

APPENDIX E

DIGEST OF FEDERAL COURT DECISIONS

A discussion of court decisions involving injunctions to restrain enforcement of orders of this Commission and of decisions relative to criminal violations of the law can be found in the text of this report. The decisions abstracted herein involve questions of regulation which are concerned with, or closely related to, matters arising before this Commission.

BANKRUPTCY

In re New York, N. H. & H. R. Co., 92 Fed. (2d) 428, second circuit: Injured passenger's claim under agreement to pay stated sum monthly during passenger's life time in addition to cash payment at the time of the injury some 25 years ago, is not entitled to priority under mortgage given for security of present and future holders of bonds issued thereunder and "of all bonds, debentures, notes, and other indebtedness" as the phrase as a whole covers a corporate "issue" like the other kinds of indebtedness which section 77 mentions. No injustice is done the claimant by denying her priority.

In re Chicago & R. I. Ry. Co., 94 Fed. (2d) 296, seventh circuit: Under contract whereby lessor railroad controlled property used in common by lessees, the latter to reimburse lessor for its working expenses on wheelage basis including taxes and assessments against lessor's property, State tax on lessor's capital stock and franchise was within the term "working expenses;" lessee liable for its proportion on wheelage basis notwithstanding payments had been made on basis of lessees' stock ownership for years.

Thompson v. *Glover*, 94 Fed. (2d) 544, eighth circuit: Lien granted against railroad by Arkansas statute for personal injury or property damage when suit is brought within one year, is perfected as of the date of injury; judgment against the railroad is entitled to preferential treatment despite the fact that it was entered after institution of reorganization proceedings, the injury occurring before institution of such proceedings.

Megan v. *Updike Grain Corp.*, 94 Fed. (2d) 551, eighth circuit: In action by trustee to recover rent due under a lease of a grain elevator on the railway company's right-of-way, the railroad cannot be accused of violating the lease by making the lessee's obligations more burdensome by reason of the fact that some of the rate increases that went into effect July 1, 1935, were not required by the Commission's order. Loss of profits is a risk assumed by lessees and not by the owner in the absence of contrary provision. Performance of the contract is not excused by reason of frustration of the object thereof.

Blumgart v. *St. Louis-S. F. Ry. Co.*, 94 Fed. (2d) 712, eighth circuit: Application for leave to intervene in proceeding in the bankruptcy court is in the nature of a proceeding in bankruptcy under section 47 (b) of the bankruptcy act, and the district court has no jurisdiction to allow appeal from an order denying intervention. As either bondholders or the trustee may file claims, there is no necessity for any of the appellant bondholders to intervene specially; special intervention is not a matter of right, but is addressed to the judicial discretion of the court. No provision in the deed of trust can prevent bondholders from exercising such rights. The act allows a mortgage trustee to file a claim on behalf of all bondholders under the mortgage. If the trustee so acts, it is unnecessary for the bondholders to file claims.

Central Hanover Bank & Trust Co. v. *Williams*, 95 Fed. (2d) 210, eighth circuit: It is generally for Congress to say what items of expense connected with or growing out of operation of the railroad shall have priority. That is a neces-

sary incident to the power to establish uniform laws of bankruptcy and just and orderly proceedings in reorganization. Preferred status given to employees for personal injuries is not an arbitrary or confiscatory classification; property which bondholders have in the railroad and the income from its operation is qualified by the rights of those who contribute the other elements of value in the going concern.

Thompson v. Siratt, 95 Fed. (2d) 214, eighth circuit: Classification of claims for personal injuries to employees as preferred in paragraph (n) of section 77 is not so unreasonable and arbitrary as to violate the fifth amendment. The legislation being a proper exercise of the bankruptcy power, there is no merit in the objection that it affects obligations incurred before its enactment.

Operating expenses of a railroad incurred within 6 months prior to appointment of receivers are to be given priority in payment over mortgages. That doctrine does not include a claim for damages for personal injuries to an employee resulting from a negligent act of the mortgagor company committed before appointment of a receiver.

Sartorius v. *Bardo*, 95 Fed. (2d) 387, second circuit: New York, Westchester & Boston Ry. Co. is an intrastate railway; therefore not within section 77 provisions.

In re Fonda, J. & G. R. Co., 95 Fed. (2d) 397, second circuit: In reorganization proceeding in which abandonment of electric line and substitution of bus service is sought, the District Judge need only consider the financial advantages or disadvantages to the debtor corporation's estate in the event that permission to abandon shall be granted by the proper regulatory bodies. Adequate protection of the public interest is provided by these requirements.

Appointment of trustee to be immediately effective without ratification by the Commission, original trustee removed with respect to the electric line, was improper.

In re New York N. H. & H. R. Co., 95 Fed. (2d) 483, second circuit: Damages for breach of covenant in 999-year lease executed in 1906 were properly disallowed when the lessor produced no evidence as to 1906 condition of the premises to support the provision to maintain the property "in as good order, repair, and condition as the same are now, and in their present state of efficiency." When the railroad agreed in the lease to pay all taxes imposed, the court should have allowed the lessor as damages for loss of rentals in debtor's rejection of lease, the stipulated rent unpaid when the petition was filed, plus the taxes. Claim for encumbrances upon busses paid off by sub-lessee out of earnings of reorganization period was properly allowed to lessor as damages for breach of the lease. Counterclaim for extension of mileage of lessor's railroad was properly disallowed, as even if the lessor had refused to honor the arbitration provision in the lease which was breached, the debtor could not press the claim without proof of value.

Johnson v. *Kurn*, 95 Fed. (2d) 629, eighth circuit: Trustee can, subject to control of bankruptcy court, adopt or reject lease made by the railroad, but such power does not affect continued existence of the lease until it is rejected, or change its terms. Adjudication does not absolve from any agreement, nor terminate a contract, or discharge a liability. The other party continues to be bound either to the bankrupt or to the trustees, if it adopts the contract, unless the contract gives the right of forfeiture. The trustee takes the contract in the same plight it was in when the bankrupt held it when by order of the referee or court, he ratifies, confirms, or adopts it.

Thompson v. *State of Louisiana*, 98 Fed. (2d) 108; *Same* v. *State of Arkansas*, 98 Fed. (2d) 112, eighth circuit: A trustee in railroad reorganization proceedings holds legal title to the railroad's property for the special purpose of rehabilitation, and rehabilitation of the debtor contemplates the debtor's continued corporate existence. The trustee is liable for franchise tax on foreign corporations imposed by the State, as a proper administration expense to prevent the loss of the franchise and under the State act making the trustee subject to all State and local taxes.

Guaranty Trust Co. of New York v. *Pacific & I. N. Ry. Co.*, 17 Fed. Supp. 646, eastern dist. New York, eastern division: Claims of individuals for services performed by them for the railroad are subordinate to claims of bondholders when services were performed since the mortgage to the bondholders was executed.

Claims of the United States representing a fine imposed upon the railroad company, against funds in possession of the trustee derived from sale of the mortgage property of the railroad, is subordinate to claims of mortgage bondholders when the mortgage was executed before the fine was imposed.

In re Missouri Motor Distributing Corp., 21 Fed. Supp. 13, western district, Missouri, western division: In the case of common carriers, the courts have indicated that priorities or preferences may be allowed for current expenses. While these are exceptions to the general rule, yet, nevertheless, they are allowed in case of common carriers because of the interest of the public. Carriers continuing line haul of initial carrier, bankrupt, are entitled to priority in proceedings for reorganization of the initial hauler, for freight charges collected by it for through movement.

In re Denver & R. G. W. R. Co., 23 Fed. Supp. 298, district Colorado: No court countenances without compelling cause nonpayment of taxes legally owing by debtors under its exclusive jurisdiction, especially when the debtor is the largest taxpayer in the State, and delay is serious to the State, counties and school districts, directly impairing their functions. But regard must be had to the fact that this railroad is a public utility rendering service of paramount importance, and most vital to business, industrial, and farming interests of the State. Increase of State and Federal taxes, and wages, costs of materials and coal, since the trustee was appointed, with sharp decrease in business and gross receipts, has postponed rehabilitation, caused discharge of many employees, cancellation of orders for material. Questions as to right of the State to increased assessed valuation are sufficiently substantial to require settlement under the bankruptcy act, authorizing the court to determine questions concerning the amount or legality of the tax.

BILLS OF LADING

Southeastern Express Co. v. *Pastime Amusement Co.*, 299 U. S. 28: The carrier's liability under the Carmack amendment for damage due to delayed delivery of goods which interrupted continuity of business, goods moving under bill of lading limiting liability to no more than the declared value of the goods, is governed thereby, and no recovery could be had in excess of the amount so permitted.

Strohmeyer & Arpe Co. v. *American Line S. S. Corp.*, 97 Fed. (2d) 360, second circuit: As against a shipper or anyone who has not advanced value on the faith of the bill of lading, the carrier is entitled to parol evidence to show that the goods were never received. Section 22 (102 U. S. Code) of the bill of lading act applies when goods have not been delivered to the carrier and the bill of lading represents that they have been so delivered and when one "in good faith, relying upon the description therein of the goods, or upon the shipment being made upon the date therein shown," has suffered damages caused by "nonreceipt by the carrier of all or part of the goods upon or prior to the date therein shown." The phrase "who has given value in good faith" applies to both straight and order bills of lading. The custody of the goods having remained in the truck driver, the carrier was not liable.

Missouri Pac. R. Co. v. *Sorrell*, 21 Fed. Supp. 886, Western district Texas, San Antonio division: The consignor is impliedly liable for freight charges, though the bill of lading does not so provide, unless contrary stipulations are made; consignor not inserting provision absolving him from liability for the charges when he signed the bill of lading, cannot prove prior or contemporaneous parol negotiations or agreements for exemption from liability.

CLAIMS OF RAIL CARRIERS

Standard Accident Ins. Co. v. *United States*, 302 U. S. 442; Claim of a railroad for unpaid freight charges, for transportation of materials used in construction of a Federal building, is for "labor and materials" (act of August 13, 1894); that the carrier might have enforced payment by withholding delivery is not reason for excluding it from the benefits of the act.

Pennsylvania R. Co. v. *Fox & London, Inc.*, 93 Fed. (2d) 669, second circuit: When terms of the published tariff are themselves unambiguous, the issue must be resolved by reference to the rate published, treating it as established law like any plain statute, leaving only the incidental issue of applicability which is dependent upon the fact of the nature of the commodity shipped. The Commission has only such jurisdiction as has been conferred upon it by Congress,

and that does not give it the power to make orders adjudicating claims of carriers against shippers and requiring the payment of such claims. Such jurisdiction is vested exclusively in the courts.

Eastern Shore of Va. Produce Exc., Inc., v. *New York Central R. Co.*, 97 Fed. (2d) 565, fourth circuit: Delay in transportation does not constitute conversion. The contracts of carriage having been performed on the part of the carrier, it is entitled to recover its charges in accordance with the tariff filed with the Commission.

COMMODITIES CLAUSE

United States v. *Elgin, J. & E. Ry. Co.*, 298 U. S. 492: All shares of appellee and the subsidiary producing companies having been owned by the steel corporation since 1901, the railroad having been under constant supervision of the commission, functioning as a separate corporate carrier under immediate control of its own directors, no one of whom is on the board of the holding company, owning all necessary equipment, making its own contracts, managing its own finances, serving its patrons without discrimination and to their satisfaction, the present proceeding being one to prevent probable future unlawful conduct and not to punish acts long since completed, the court should now consider not what the corporation had power to do or did, but what it now has power to do and is doing.

Notwithstanding certain isolated acts may indicate undue control over the carrier at the time, instances of participation in the affairs of the appellee by the officers of the steel corporation are relatively few, and are not adequate to support the claim that appellee must be regarded as the alter ego of its stockholder.

CONTAINERS

Snively Groves, Inc. v. *Florida Citrus Comm.*, 23 Fed. Supp. 600, northern district, Florida, Gainesville division: Regulation of the Florida Citrus Commission fixing standard containers, maximum capacity of 1⅗ bushels, for citrus fruit, was not an unlawful interference with interstate commerce; it operated while the product was within the jurisdiction of the State, before entering interstate commerce. It was a legitimate use of police power.

DEMURRAGE ACCRUING DURING STRIKE

Continental Grain Co. v. *Armour Fertilizer Works*, 22 Fed Supp. 49, southern district, New York: Charging demurrage, for a week or 10 days' period, during longshoremen's strike, sustained.

FOOD AND DRUGS ACT

United States v. *Great Atlantic & Pac. Tea Co.*, 92 Fed (2d) 610, second circuit: The word "package" in the Food and Drugs Act is not used in the same sense as the phrase "original unbroken package," which phrase is used with reference to situations which arise where the article transmitted has reached the consignee, but has not yet become a part of the general property of the State in which the vendee or consignee lives. The package, still being unbroken, and not having become a part of the property of the State, remains subject to Federal control.

Pennsylvania R. Co. v. *Charles E. Gibson, Inc.*, 23 Fed. Supp. 857, eastern district, South Carolina: The shipper of cabbages, which were seized at destination for violation of the Food and Drugs Act, was not liable to the delivering carrier for freight charges, as there was no privity of contract between them. The terminal carrier is given a lien; it should collect from the consignee before surrendering its lien, and the consignee cannot plead lack of privity of contract, as when the carrier surrenders its lien and delivers goods to the consignee, it extends its personal credit to the consignee and the law implies a contract on the part of the consignee to pay the terminal carrier.

GOLD CLAUSE

Guaranty Trust Co. of New York v. *Henwood*, 98 Fed. (2d) 160, eighth circuit: An option of payment either in gold dollars of a specified weight and fineness or in a foreign currency, the amount or value of which was based

upon such gold dollars, was given, and hence was unenforceable under the joint resolution of Congress under reorganization proceedings, filed claim asserting right of payment in Dutch guilders instead of dollars.

GOOD WILL

Denver Union Stock Yard Co. v. *United States*, 21 Fed. Supp. 83, district Colorado: In the distinction made between good will and going-concern value (289 U. S. 287), good will is an "element of value which inheres in the fixed and favorable consideration of customers, arising from an established and well-known and well-conducted business," which is not to be considered in determining whether rates fixed for public service corporations are confiscatory.

HOLDING COMPANIES

United States v. *Elgin, J. & E. Ry. Co.*, 298 U. S. 492: Considering former rulings, it is impossible for the court to declare now as a matter of law that every company all of whose shares are owned by a holding company necessarily becomes an agent, instrumentality, or department of the latter. Whether such intimate relation exists is a question of fact to be determined upon evidence. The mere power to control, the possibility of initiating unlawful conditions, is not enough.

Electric Bond & Share Co. v. *Securities & Exc. Comm.*, 303 U. S. 419 (affirming 92 Fed. (2d) 580): That defendant holding companies conduct transactions in interstate commerce through the instrumentality of subsidiaries cannot avail to remove them from the reach of Federal power. It is the substance of what they do, not the form in which they clothe their transactions, which must afford the test. * * * Information bearing upon activities which are within the range of congressional power may be sought not only by congressional investigation as an aid to appropriate legislation, but through the continuous supervision of an administrative body. Congress may use this method in connection with a comprehensive scheme of regulation or may employ this informatory process independently.

HOURS OF SERVICE

United States v. *Pitcairn*, 23 Fed. Supp. 242, eastern district, Missouri, eastern division: A release, to break continuity of service, must be such that all the facts and surrounding circumstances will permit of the employees being absolutely free to come and go at will, and not so restricted that the complete enjoyment of such release may be hampered by the fear that such employee may be wanted at some particular place during such time of release for duty in connection with his regular work. The act was violated when employees, having worked 8 hours, were called to report 1½ hours later for another 8 hour shift, the intervening 1½ hour period being spent in going to the yard, and eating.

INTERSTATE COMMERCE

State of Texas v. *Anderson, Clayton & Co.*, 92 Fed. (2d) 104, fifth circuit: In determining whether a particular shipment is interstate, the intention existing at the time the movement starts governs and fixes the character of the shipment. If it comes to rest within the State of origin and the goods are thereafter disposed of locally, the interstate character is lost, but temporary stoppage within the State, made necessary in furtherance of the interstate carriage, to grade, sample, and assemble, or load on a vessel, does not change its character.

Puget Sound Stevedoring Co. v. *Tax Comm.*, 302 U. S. 90: The business of the stevedoring company, insofar as it consists of the loading and discharge of cargoes of vessels engaged in interstate or foreign commerce and control, is interstate or foreign commerce.

LIVESTOCK

United States v. *Illinois Central R. Co.*, 303 U. S. 239: Penalty provided may not be recovered unless the carrier is also shown "willfully" to have failed to comply with the statute. "Willfully" means something not expressed by "knowingly"; does not mean with intent to injure the cattle or inflict loss upon

the owner; does mean purposely or obstinately, and is designed to describe the attitude of a carrier, who with free will or choice either intentionally disregards the statute or is plainly indifferent to its requirements. The carrier is responsible for the yardmaster's negligence, whether or not such negligence was intentional or excusable.

United States v. *Baldwin*, 17 Fed. Supp. 789, District Nebraska, Omaha division: The United States cannot recover penalty from carriers for confining livestock 36 hours without unloading, watering, feeding, when violation was the result of the conductor's wheel report being in error; no willful violation is shown.

Denver Union Stock Yard Co. v. *United States*, 21 Fed. Supp. 83, District Colorado: Exclusion by the Secretary of Agriculture, in fixing stockyard rates, the value of railroad trackage, loading and unloading docks, pens, and alleys owned by the stockyards company but leased to the railroad serving the yards, sustained, section 15 (5) obligating the carrier to deliver livestock at destination free off cars in a suitable place where consignee can take delivery, without extra charge, such facilities being transportation, not yard, facilities.

United States v. *Boston & M. R.*, 21 Fed. Supp. 673, district Massachusetts: In an action under the penalty statute for willful confinement of sheep for over 36-hour period, the burden of proof that excessive confinement was due to accidental and unavoidable cause, breaking of train drawbars, is upon the railroad.

MOTOR CARRIERS

South Carolina Highway Dept. v. *Barnwell Bros., Inc.*, 303 U. S. 177: The State's regulations, if they are to accomplish their end, must be applied alike to interstate and intrastate traffic both moving in large volume over its highways. The fact that they affect alike shippers in interstate and intrastate commerce in large number within as well as without the State, is a safeguard against their abuse. With respect to the extent and nature of the local interests to be protected and the unavoidable effect upon interstate and intrastate commerce alike, regulations of the use of highways are akin to local regulation of rivers, harbors, piers and docks, quarantine regulations, game laws, which, Congress not acting, have been sustained even though they materially interfere with interstate commerce. In the absence of national legislation especially covering the subject of interstate commerce, the State may rightly prescribe uniform regulations adapted to promote safety upon its highways, and the conservation of their use, applicable alike to vehicles moving in interstate and intrastate commerce. Weight limitations, width provisions, are within the power of the State.

Continental Casualty Co. v. *Shankel*, 88 Fed. (2d) 819, tenth circuit: A State may not require a carrier to furnish liability insurance covering persons and property being transported in interstate commerce. On the other hand, the right of the State to legislate for protection of employees engaged in interstate commerce, in the absence of national regulation on the subject, has been sustained in a number of decisions.

Wolk v. *United States*, 94 Fed. (2d) 310, eighth circuit: With the advent of interstate shipments by trucks, and picking up shipments from the shipper, responsibility of the interstate carrier begins on delivery to it of goods at the shipper's residence or place of business. In the instant case the hotel porter was the agent of the trucking company in issuing the bill of lading and delivery of trunks at the hotel to the truck company or any one that the truck company might designate.

Thompson v. *McDonald*, 95 Fed. (2d) 937, fifth circuit: The Interstate Commerce Commission has jurisdiction over the commercial considerations appertaining to the interstate truck business, but preservation and safety of the roads themselves has been left with the State commissions. If Congress occupies only a limited field, then State regulation is not prohibited. The Motor Carrier Act prohibiting any one engaging in interstate commerce until he receives certificate from the Commission does not invalidate State statute authorizing State authorities to deny use of State highways to interstate carriers on the ground that preservation of the highways and the safety of the public will be endangered by excessive traffic. Prohibition of use of the highways if they are not of proper construction or in proper condition to maintain proposed traffic, and if contemplated use would increase dangers and hazards thereon and congest the traffic, unreasonable interference with

the use of the highways by the public, was for the prime purpose of conserving the roads for their primary uses.

Liberty Mutual Ins. Co. v. *McDonald*, 97 Fed. (2d) 497, sixth circuit: Insurance policy issued under State requirements covered all equipment operated by the interstate carrier on Tennessee highways, whether specified in the policy or not. Tractor and trailer standing empty on the highway after breaking down, cargo being removed, had not ceased to be "operated" within the statute. Tractor used in substitution for that which had broken down and which was covered by liability and property damage insurance policy, was covered by such policy under statute requiring that described vehicles should be included "and any vehicles substituted therefor."

Southern Fruit Co. v. *Porter*, 20 Fed. Supp. 359, western district, South Carolina: Ordinance levying license taxes on truckers engaged in interstate commerce, for use of the highways, not sustained as a police measure, to aid in maintenance cost thereof, nor as occupation tax, in the absence of a showing that truckers were engaged in intrastate commerce. It must affirmatively appear that the tax is levied only as compensation for the use of streets or to defray expenses of regulating traffic thereon.

Southern Fruit Co., Inc., v. *Porter*, 21 Fed. Supp. 1011, western district, South Carolina: The Federal district court has no jurisdiction of suit of nonresident truck operators to enjoin enforcement of ordinances imposing taxes, when the amount of tax involved is less than $3,000; the value of the property and business of the operators cannot be included in computing the amount necessary to establish the jurisdictional amount.

Roundtree v. *Terrell*, 22 Fed. Supp. 297, northern district, Texas, Dallas division: A shipment of goods which traverses another State, though the points of origin and of destination are in the same State, is interstate commerce. That interstate motor carrier in transporting freight from Dallas, Tex., to his Texarkana, Ark., warehouse for delivery to Texas and Arkansas sides of Texarkana, stopped his trucks for unloading in Texarkana, Tex., did not affect the interstate character of the transportation. The Texas Commission has no jurisdiction over the carrier.

Dixie Greyhound Lines v. *McCarroll*, 22 Fed. Supp. 985, western district, Arkansas: Interstate commerce must pay its own way, and must pay for those facilities furnished it by the various States, provided such charges are reasonable and bear a fair degree of relationship to the facilities afforded. That gasoline used in operation of plaintiff's busses over the highways of Arkansas has been previously taxed by the State of Tennessee does not preclude the State of Arkansas from likewise exacting a tax for the use of its highways. That to pay the tax upon the sale or use of gasoline would increase costs of doing business and thereby lessen plaintiff's profit of operation, that to purchase gasoline within the State is not practical nor safe to the traveling public, is untenable. When the power to tax exists, the extent of the burden is a matter for the discretion of the lawmakers. Even if a tax should destroy a business, it would not be made invalid or require a compensation upon that ground alone. Those who enter upon a business take that risk.

Eichholz v. *Hargus*, 23 Fed. Supp. 587, western district, Missouri: It was the intention of Congress to leave with each State the exclusive right to regulate and control intrastate commerce by motor carriers on the highways of the State. The Missouri Public Service Commission acted within its power in revoking the carrier's interstate permit upon the carrier's violation of its rule by carrying property in intrastate commerce without an intrastate permit. As plaintiff accepted a license from the State commission which specifically forbade that he haul property between points in the State under interstate permit, he had his choice, either to refrain from hauling intrastate traffic under his interstate permit, or to secure authority as an intrastate carrier.

Brashear Freight Lines, Inc., v. *Public Service Comm.*, 23 Fed. Supp. 865, western district, Missouri: The State may properly charge a portion of both the original cost of its highways and of depreciation thereof in assessing license fees for use of the highways.

It is not logical that the weight of a truck may be a factor in causing depreciation and not be a factor in creating expenses.

The burden of showing the unreasonableness of the fee and injury of the method used in determining the amount of the fee is upon plaintiff.

Sufficient distinction exists between uses of highways for private and contract carrier uses and uses as a common carrier to defeat the charge of discrimination.

Annual license fees imposed by the State based upon capacity of the vehicle, the funds to be used to maintain and properly care for the highways, are not invalid because assessed on a flat annual basis rather than a mileage basis.

That one may pay less for the greater use of the same privilege is immaterial so long as each plaintiff is not charged an unreasonable fee for the use of their privilege.

Paul Gray, Inc., v *Ingels*, 23 Fed. Supp. 946, southern district, California: Caravan Act of California, imposing license fee on cars moved from outside the State to points within the State, or from one of two zones within the State to other zones, for sales purpose, but not applied to intrazone movements, was invalid as discriminating between interstate and interzone movement as against intrazone movement, when interzone movement was negligible.

PRIVATE CARRIERS

Pennsylvania R. Co. v. *Public Utilities Comm. of Ohio*, 298 U. S. 83: The Pittsburgh Coal Co. owns mines in Pennsylvania, sells coal in Ohio, has its own right of way, with tracks and cars and engine. Transportation from Ohio to Youngstown, both in Ohio, was intrastate service, not subject to the act, and its character in that regard was not changed because of preliminary carriage from the Pennsylvania mines in equipment of the coal company. The act is aimed at common carriers exclusively.

RAILROAD RETIREMENT ACT

Nashville, C. & St. L. Ry. v. *Railway Employees' Dept.*, 93 Fed. (2d) 340, sixth circuit: The more limited provision as to employees in the amended retirement act had for its purpose escape from the constitutional infirmity of the earlier statute. The court knows of no rule of statutory construction which requires two acts relating to separate and distinct subjects to be read in pari materia, even though they affect the same general class of persons, as, the Railway Labor Act, and Retirement Act, section 1 (7) of the Interstate Commerce Act.

RAILWAY LABOR ACT

Brotherhood of Railroad Trainmen v. *National Mediation Board*, 88 Fed. (2d) 757, District of Columbia: The general purpose of the act is to promote peaceful and conciliatory consideration of labor disputes and secure the right of collective bargaining, through a representative chosen by a majority of the employees in a particular craft or class. But the act leaves uncertain the precise or exact meaning of the words "class or craft."

Nashville, C. & St. L. Ry. v. *Railway Employees' Dept.*, 93 Fed. (2d) 340, sixth circuit: The term "employee" discussed and defined, under Railway Labor, Railroad Retirement, and Interstate Commerce Acts.

Virginia Ry. Co. v. *System Federation*, 300 U. S. 515: Activities in which back shop employees are engaged have such a relation to the other confessedly interstate activities of the carrier that they are to be regarded as a part of them. All taken together fall within the power of Congress over interstate commerce, which extends to such regulations of the relations of rail carriers to their employees as are reasonably calculated to prevent the interruption of interstate commerce by strikes and their attendant disorders.

RECAPTURE PROVISION

Richmond, F. & P. Ry. Co. v. *Early*, 97 Fed. (2d) 312, fourth circuit: It was within the power of Congress to provide for return of funds recovered from carriers under the recapture provisions, and to prescribe conditions on which the grant was made. Nullification of the recapture provisions, making the restored funds part of the gross income of the carrier, and providing that limitations on the assessment, collection, or refund of taxes and liabilities of the carrier already determined should not be affected, referred to limitations and decisions already effective.

SAFETY APPLIANCE ACTS

Tipton v. *Atchison, T. & S. F. Ry. Co.*, 298 U. S. 141: The safety appliance acts do not give a right of action for their breach but leave the genesis and

regulation of such action to the law of the States. The application of the doctrines of contributory negligence and last clear chance by the State court raises no Federal questions reviewable in the Supreme Court. The absolute duty imposed by the act necessarily supersedes the common law duty of the employer.

Chicago G. W. R. Co. v. *Rambo*, 298 U. S. 99: Simply because the engineer failed to see some object 800 feet ahead does not show that he could not have seen so far, how far he was looking not appearing.

Brady v. *Terminal R. Assn.*, 303 U. S. 10: As the car had not been withdrawn from use and was still in possession of defendant, left on the receiving track of a connecting carrier for inspection, its statutory duty continued. That petitioner was not an employee of defendant, but an inspector looking for defects, did not necessarily absolve defendant from duty to him. As petitioner, in the course of his duty would have occasion to go upon the car and use the grabiron, the benefit of the statute would extend to him.

Wabash Ry. Co. v. *Bridal*, 94 Fed. (2d) 117, eighth circuit: To entitle plaintiff to recover it was essential that at the time of receiving his injuries both he and the railway were engaged in interstate transportation. Plaintiff failing to prove that at the time of receiving injuries he and defendant were engaged in interstate transportation, there was no error in denying defendant's motion for directed verdict.

Anderson v. *Baltimore & O. R. Co.*, 96 Fed. (2d) 796, second circuit: Whether inference of defect in the sanding apparatus arose from its failure to function was overcome by the railroad's explanation that weather conditions sometimes cause sand to clog, is a question for the jury.

United States v. *Fort Worth & D. C. Ry. Co.*, 21 Fed. Supp. 916, northern district, Texas, Amarillo division: A locomotive crane, consisting of the arm of the crane, cables, and pulleys and a cab which contained the steam engine and appliances for controlling the equipment, all mounted on a short flat car, propelled by power furnished by the steam engine, used in unloading boulders from flat cars, at the same time hauling three flat cars for 2½ miles over an interstate road, was employed as a carrier and not as a construction contractor, and the crane was a locomotive engine required to be equipped with power driving wheel brakes when so used.

United States v. *Panhandle & S. F. Ry. Co.*, 21 Fed. Supp. 919, northern district of Texas: A car in a train of 41 cars equipped with power brakes, but cut off at the thirty-eighth car, continued to be a power-braked car, and as it continued on the same train line with other power-braked cars and was not placed to the rear of the train, its association with the other power-braked cars was not broken, and the safety appliance acts were violated.

SECURITIES

Pennroad Corp. v. *Ladner*, 21 Fed. Supp. 575, eastern district, Pennsylvania: The written evidence of the ownership of shares issued by a corporation is known as a "certificate" of stock. When the holder of a stock certificate transfers it by indorsing the transfer on the certificate, there is a transfer of the stock whether the transferee has the transfer noted on the records of the corporation or retains the indorsed certificate as evidence of his title. Title 8 of the Revenue Act of 1926, section 800 et seq., 44 Stat. 101, imposes a tax upon the transfer.

STATE SALES TAX

Southern Pac. Co. v. *Corbett*, 20 Fed. Supp. 940, 23 Fed. Supp. 193, northern district, California, Southern division: Tax on use or storage, complementary to State sales tax, of materials and supplies brought into the State by an interstate railroad, for use in interstate and intrastate operation of the railroad, constitutes an unconstitutional burden on interstate commerce. The power of Congress is paramount to the reserved power of the State when the two conflict.

TARIFFS

United States ex rel. Sonken-Galamba Corp. v. *Missouri-K.-T. R. Co.*, 21 Fed. Supp. 931, western district, Missouri: Contention that the tariff on scrap iron and scrap steel involves a peculiar meaning for determination by the Com-

mission, not sustained, the Commission having clarified such tariff provision. The sole question, left by the Commission's interpretation of what constitutes scrap iron or scrap steel, is whether the shipment had a recognized commercial value other than for junk purposes.

TRAFFIC IN LIQUOR

Wylie v. *State Board of Equalization*, 21 Fed. Supp. 604, southern district, California, central division: The power of the States to control traffic in liquor under the twenty-first amendment is absolute; it is not limited by the commerce clause, and such a control is a proper exercise of the State police power. The right to transport liquor from State to State does not confer the privilege of selling it without regulation by a State.

WHARFAGE CHARGES

Davison Gulfport Fertilizer Co. v. *Gulf & S. I. R. Co.*, 92 Fed. (2d) 107, fifth circuit: The Hepburn amendment and later amendments to the act have superseded the public resolution of June 14, 1906, and contract based thereon, between the Federal Government and the carrier, providing that the Secretary of War should make and publish wharfage tolls, fees, or charges at Gulfport. Wharfage charges at Gulfport are within the scope of the Interstate Commerce Act. At no place in the act is there any exception or exemption, either in terms or by implication, excluding a carrier because of its having made a contract.

APPENDIX F

AUTHORIZATIONS UNDER SECTIONS OF THE INTERSTATE COMMERCE AND TRANSPORTATION ACTS AND LOANS UNDER THE RECONSTRUCTION FINANCE CORPORATION ACT

Certificates of Convenience and Necessity for Construction of Lines of Railroad Issued Under Section 1 (18) of the Interstate Commerce Act, as Amended

Name of applicant	Location of line	Mileage
Atlantic C. L. R. Co	Columbus County, N. C	.950
California A. & S. F. Ry. Co	Maricopa County, Ariz	5.900
Chesapeake & O. Ry. Co	Boone County, W. Va	6.600
Chicago, B. & Q. R. Co	Denver, Colo	.130
Cleveland, C., C. & St. L. Ry. Co	Gibson and Warrick Counties, Ind	12.300
Denver & R. G. W. R. Co., Trustees	Denver, Colo	.500
Denver & S. L. Ry. Co	do	1.800
Kansas City, M. & O. Ry. Co. of Tex	Nolan County, Tex	.074
Los Angeles & S. L. R. Co. and Union P. R. Co., lessee.	Los Angeles County, Calif	.329
Pecos & N. T. Ry. Co	Nolan County, Tex	.076
Virginian Ry. Co	Wyoming County, W. Va	8.000
Total number of miles		36.659

Certificates of Convenience and Necessity for Abandonment of Lines of Railroad or the Operation thereof, Issued Under Section 1 (18) of the Interstate Commerce Act, as Amended

Name of applicant	Location of line	Mileage
Acme T. R. Co. and Fort Worth & D. C. Ry. Co.	Hardeman County, Tex	1.510
Atchison, T. & S. F. Ry. Co	Alameda and San Francisco Counties, Calif	5.640
Do	Montgomery and Chautauqua Counties, Kans.	38.730
Atlantic & D. Ry. Co	Greensville, Surry, and Sussex Counties, Va	50.420
Baltimore & O. R. Co	Belmont County, Ohio	6.570
Do	Carroll County, Ohio	1.490
Do	Preston County, W. Va	3.700
Barre & C. R. Co	Washington County, Vt	1.358
Boston & M. R	Grafton and Coos Counties, N. H	20.130
Carolina & N. Wn. Ry. Co	Caldwell County, N. C	20.300
Central of Ga. Ry. Co., receiver	Candler, Emanuel, and Laurens Counties, Ga	47.400
Central P. Ry. Co. and Southern P. Co., lessee.	Mineral County, Nev., and Mono County, Calif.	50.000
Central V. Ry. Incorporated	Chittenden and Lamoille Counties, Vt	25.810
Chicago, B. & Q. R. Co	Decatur County, Iowa, and Harrison County, Mo.	20.590
Chicago, M., St. P. & P. Ry. Co., trustees	Clayton and Fayette Counties, Iowa	58.000
Do	Scott County, Iowa	3.100
Do	Hutchinson and Bon Homme Counties, S. Dak	8.900
Do	Crawford, Richland, and Vernon Counties, Wis.	52.000
Chicago & N. Wn. Ry. Co., trustees	Custer and Fall River Counties, S. Dak	14.318

Certificates of Convenience and Necessity for Abandonment of Lines of Railroad or the Operation thereof, Issued Under Section 1 (18) of the Interstate Commerce Act, as Amended—Continued.

Name of applicant	Location of line	Mileage
Chicago, R. I. & P. Ry. Co., trustees	St. Louis County, Mo	2.490
Do	Mahaska and Marion Counties, Iowa	20.400
Do	Muscatine, Johnson, and Washington Counties, Iowa.	19.790
Do	Marshall and Carter Counties, Okla	12.290
Do	Nuckolls County, Nebr	12.000
Chicago, St. L. & N. O. R. Co. and Illinois C. R. Co., lessee.	Vanderburgh County, Ind., and Henderson County, Ky.	2.210
Choctaw, O. & G. R. Co., trustees, and Chicago, R. I. & P. Ry. Co., trustees.	Pittsburg, Atoka, Coal, Johnston, Marshall, and Carter Counties, Okla.	87.610
Clinton, D. & M. Ry. Co	Scott and Muscatine Counties, Iowa	27.250
Colorado & S. Ry. Co	Las Animas County, Colo	3.920
Denver & R. G. W. R. Co., trustees	Pueblo County, Colo	3.360
Do	Huerfano County, Colo	5.420
Eureka-Nevada Ry. Co	Eureka County, Nev	88.125
Fonda, J. & G. R. Co., trustee	Fulton, Montgomery, and Schenectady Counties, N. Y.	34.340
Fort Smith, S. & R. I. R. Co	Logan and Yell Counties, Ark	26.000
Fox & I. U. Ry. Co. receiver	Grundy and Kendall Counties, Ill	20.000
Grand Rapids & I. Ry. Co. and Pennsylvania R. Co. lessee.	Missaukee County, Mich	10.290
Gulf, C. & S. Fe Ry. Co	Fannin County, Tex	11.700
Hartford & C. W. R. Co., trustees	Litchfield County, Conn	7.030
Do	do	10.200
Do	Dutchess and Columbia Counties, N. Y	10.100
Hartford & C. W. R. Co., trustees, and New York, N. H. & H. R. Co., trustees.	Litchfield County, Conn	8.090
Do	do	1.140
Do	Hartford County, Conn., and Hampden County, Mass.	17.010
Do	Dutchess and Columbia Counties, N. Y	31.770
Do	Dutchess County, N. Y., and Litchfield County, Conn.	2.760
Do	Hartford County, Conn	1.170
Hawaii C. Ry. Co. Ltd	Hawaii County, Hawaii	8.300
Hickory V. R. Co	Forest County, Pa	3.027
Hoosac T. & W. R. Co	Bennington and Windham Counties, Vt	13.000
Iberia St. M. & E. R. Co., trustee, and New Iberia & N. R. Co., trustee.	St. Mary Parish, La	8.726
Illinois C. R. Co	Pottawattamie County, Iowa, and Douglas County, Nebr.	3.850
Illinois T. R. Co	Madison and Champaign Counties, Ill	5.320
Indian V. R. Co	Plumas County, Calif	8.050
Do	do	13.230
Kansas City, M., & O. Ry. Co. of Tex. and Panhandle & S. Fe Ry. Co.	Nolan County, Tex	1.170
Kansas & S. R. Co	Edgar County, Ill	19.000
Lehigh & N. E. R. Co	Northampton and Monroe Counties, Pa	5.100
Lehigh V. Ry. Co. and Lehigh V. R. Co	Chemung and Schuyler Counties, N. Y	18.997
Do	Madison and Oneida Counties, N. Y	20.260
Long I. R. Co	Suffolk County, N. Y	11.000
Los Angeles & S. L. R. Co. and Union P. R. Co., lessee.	Tooele and Utah Counties, Utah	13.170
Do	Los Angeles County, Calif	2.460
Louisiana S. Ry. Co., receiver	Plaquemines and St. Bernard Parishes, La	36.900
Louisville & N. R. Co	Logan County, Ky	12.000
Lufkin H. & G. Ry. Co	Sabine County, Tex	10.470
Maine C. R. Co	Hancock and Androscoggin Counties, Maine	13.640
Mineral Range R. Co., trustees	Baraga and Houghton Counties, Mich	16.050
Minneapolis, R. L. & M. Ry. Co	Beltrami County, Minn	35.620
Minneapolis & St. L. R. Co., coreceivers	Boone County, Iowa	4.600
Do	Clay County, Iowa	2.000
Do	Kossuth County, Iowa	8.500
Montour R. Co	Allegheny County, Pa	5.559
Morgan's L. & T. R. & S. Co. and Texas & N. O. R. Co.	St. Martin Parish, La	4.370
Nevada C. R. Co	Lander County, Nev	92.300
New York, N. H. & H. R. Co., trustees	Hartford and Tolland Counties, Conn	3.300
Do	New Haven and Middlesex Counties, Conn	4.880
Do	Fairfield County, Conn	.620
Do	New Haven County, Conn	.210
Do	Washington County, R. I	.580
Do	Norfolk County, Mass	.480
Do	Middlesex County, Mass	5.380
Do	Fairfield County, Conn	7.430
Do	Columbia and Dutchess Counties, N. Y	62.010
Do	New Haven County, Conn	4.770

Certificates of Convenience and Necessity for Abandonment of Lines of Railroad or the Operation thereof, Issued Under Section 1 (18) of the Interstate Commerce Act, as Amended—Continued.

Name of applicant	Location of line	Mileage
Norfolk S. Ry. Co., receivers	Moore County, N. C	4.331
Norfolk & W. Ry. Co	Russell County, Va	9.100
Northern P. Ry. Co	Yakima County, Wash	2.856
Old Colony R. Co., trustees, and New York, N. H. & H. R. Co., trustees.	Plymouth, Bristol, and Norfolk Counties, Mass.	12.640
Pearl River V. R. Co	Pearl River and Hancock Counties, Miss	22.500
Pennsylvania R. Co	Blair, Clearfield, and Armstrong Counties, Pa	3.650
Philadelphia, B. & W. R. Co. and Pennsylvania R. Co.	New Castle County, Del	3.070
Pittsburgh, A. & McK. R. R. Co	Allegheny County, Pa	.510
Puget S. & C. R. Co	Skagit County, Wash	28.300
Quemahoning B. R. Co. and Baltimore & O. R. Co.	Somerset County, Pa	8.120
St. Louis-S. F. Ry. Co., trustees	Walker County, Ala	1.950
Do	Wayne and Carter Counties, Mo	40.620
St. Louis S. Wn. Ry. Co., trustee, and St. Louis-S. F. Ry. Co., trustees.	Pemiscot County, Mo	.210
Do	Mississippi County, Mo	5.270
Schuylkill V. N. & R. Co., president, managers, and company of, and Reading Co.	Schuylkill County, Pa	.880
Shelby C. Ry. Co., receiver	Shelby County, Mo	8.500
Shelby N. Wn. Ry. Co., receiver	Shelby and Knox Counties, Mo	21.000
Shreveport, H. & G. R. Co	Angelina County, Tex	11.000
Sierra R. Co	Tuolumne and Mariposa Counties, Calif	59.000
Southern Ry. Co	Fulton, Clayton, Fayette, Spalding, and Pike Counties, Ga.	40.100
Do	Aikin County, S. C	5.000
Do	Hamblen County, Tenn	2.750
Southern Ry. Co. in Ky. and Southern Ry. Co.	Mercer County, Ky	3.830
Southern P. R. Co. and Southern P. Co., lessee	Fresno and Kings Counties, Calif	11.350
Tennessee & N. C. R. Co	Cocke County, Tenn., and Haywood County, N. C.	21.000
Texas & N. O. R. Co	Vermilion Parish, La	5.900
Do	St. Mary Parish, La	8.393
Texas & P. Ry. Co	Caddo Parish, La	2.200
Union P. R. Co	Keith and Garden Counties, Nebr	32.370
Virginia C. Ry	Orange and Spotsylvania Counties, Va	37.000
Visalia E. R. Co	Santa Clara County, Calif	8.243
Wabash Ry. Co. and receivers	Moultrie and Shelby Counties, Ill	24.090
Wabash Ry. Co. and receivers and Chicago, B. & Q. R. Co.	Nodaway County, Mo	.372
Warrior S. R. Co. and Mobile & O. R. Co., receivers.	Tuscaloosa County, Ala	13.660
Willamette V. Ry. Co	Clackamas County, Oreg	20.500
Williamsport & N. B. Ry. Co	Lycoming and Sullivan Counties, Pa	45.580
Wisconsin C. Ry. Co. and its receiver, and Minneapolis, St. P. & S. S. M. Ry. Co., trustees.	Clark County, Wis	6.780
Wisconsin & M. R. Co	Marinette County, Wis., and Menominee and Dickinson Counties, Mich.	76.000
Yadkin R. Co	Stanly County, N. C	9.530
Yazoo & M. V. R. Co	Leflore County, Miss	3.140
Total number of miles		2,014.055

Certificates of Convenience and Necessity for Acquisition and/or Operation of Lines of Railroad Issued Under Section 1 (18) of the Interstate Commerce Act, as Amended

Name of applicant	Location of line	Mileage
Baltimore & O. R. Co	Belmont County, Ohio	3.500
Do	Allegheny, Beaver, and Lawrence Counties, Pa.	58.000
Bevier & S. R. Co	Macon County, Mo	1.960
Chesapeake & O. Ry. Co	Boone County, W. Va	3.150
Chicago, B. & Q. R. Co	Morgan County, Ill	1.038
Colorado & S. Ry. Co	Denver, Colo	1.100
Do	Las Animas County, Colo	6.730
Curtis Bay R. Co	Baltimore, Md	.510
Denver & R. G. W. R. Co., trustees	Denver, Colo	3.590
Erie R. Co., trustees	Lackawanna and Luzerne Counties, Pa	18.450
Illinois C. R. Co	Pottawattamie County, Iowa, and Douglas County, Nebr.	3.000
Lehigh V. Ry. Co	Tioga and Chemung Counties, N. Y	18.550
Los Angeles & S. L. R. Co. and Union P. R. Co., lessee.	Lincoln County, Nev	8.690
Do	Los Angeles County, Calif	2.650
Louisiana & A. Ry. Co	Caddo and Bossier Parishes, La	2.018
Missouri-K.-T. R. Co. of Texas and International G. N. R. Co., trustee.	Galveston and Harris Counties, Tex	50.000
St. Louis S. W. Ry. Co., trustee	Caddo Parish, La	.809
St. Paul B. & T. Ry. Co	Dakota County, Minn	2.980
Southern P. R. Co. and Southern P. Co., lessee	Los Angeles County, Calif	.318
Union P. R. Co	Keith and Garden Counties, Nebr	33.160
Western M. Ry. Co	Allegany County, Md	10.230
Willamina & G. R. Ry. Co	Yamhill and Polk Counties, Oreg	9.000
Total number of miles		239.433

Authorizations Issued Under Section 5 (4) of the Interstate Commerce Act, as Amended

Acquiring carrier	Owning company	Miles of road	How acquired
Alton R. Co	Joliet & C. R. Co	4.271	Lease.
Atchison, T. & S. F. Ry. Co	California A. & S. F. Ry Co	5.900	Do.
Burlington-R. I. R. Co	Galveston T. Ry. Co	2.690	Do.
Chesapeake & O. Ry. Co	New York, C. & St. L. R. Co. and Erie R. Co.	2,775.000	Purchase of stock.
Cleveland, C., C. & St. L. Ry. Co	Cincinnati, N. R. Co.; Cincinnati, S. & C. R. Co.; Cincinnati L. & C. R. Co.; Columbus, H. & G. R. Co.; Evansville, I. & T. H. Ry. Co.; Evansville, M. C. & N. Ry. Co.; Muncie Belt Ry. Co.; and Vernon, G. & R. R. Co.	664.080	Merger.
Colorado R. Inc	Colorado-K. Ry. Co	22.000	Purchase.
Colorado & S. Ry. Co	Fort Worth & D. T. Ry. Co	----------	Purchase of stock.
Duluth, M. & I. R. Co	Duluth & I. R. Co., and Interstate T. R. Co.	----------	Do.
Do	do	250.870	Merger.
Gulf, C. & S. F. Ry. Co	Pecos & N. T. Ry. Co	.076	Lease.
Kansas, O. & G. Ry. Co	Kansas, O. & G. Ry. Co. of Tex	9.000	Do.
Missouri P. R. Co., trustee	Kiowa, H. & P. R. Co	10.400	Do.
Mound City & E. Ry. Co	Minneapolis & St. L. R. Co	29.600	Do.
New York C. R. Co	Cleveland, C., C. & St. L. Ry. Co	12.300	Do.
Nypano R. Co	Youngstown & A. Ry. Co	4.820	Purchase.
Panhandle & S. F. Ry. Co	Kansas City, M. & O. of Tex	.074	Lease.
Reading Co	Mount Carmel R. Co	5.860	Do.
Salt Lake & U. R. Corporation	Salt Lake & U. R. Co	76.140	Purchase.
Southern P. Co	South P. C. Ry. Co	77.820	Do.
Tennessee, A. & G. Ry. Co	Tennessee A. & G. Ry	86.740	Do.
Toledo & O. C. Ry. Co	Bailey Run, S. C. & A. Ry. Co.; Middleport & N. Ry. Co.; Kanawha & M. Ry. Co.; Kanawha & W. Va. R. Co.; and Zanesville & W. Ry. Co.	306.050	Purchase of stock and merger.
Total		4,343.691	

Authorization of the Issuance of Securities and the Assumption of Obligations and Liabilities in Respect of the Securities of Others Under Section 20a of the Interstate Commerce Act, as Amended

Stock, common:	
For acquisition of property including equipment	$55,000.00 [1] 2,500
For acquisition of property other than equipment	[1] 52
For acquisition of securities of other companies	871,706.22
For exchange for common stock	300,000.00 [1] 1,298,200
For general corporate purposes (not segregated)	77,025.00
For payment of advances	12,597,800.00
Assumption of obligation and liability in respect of $12,907,806.22.	
Total	13,901,531.22 [1] 1,300,752
Stock, preferred: For acquisition of property including equipment	154,000.00
Total stock	14,055,531.22 1,300,752
Bonds, collateral-trust: For acquisition of securities of other companies	1,027,000.00
Bonds, mortgage:	
For acquisition of property including equipment	400,000.00
For exchange for common stock	20,000,000.00
For exchange for matured funded debt	27,895,000.00
For exchange for unmatured funded debt	5,466,000.00
For extension of matured funded debt	15,522,377.85
For general corporate purposes (not segregated)	381,400.00
For payment of advances	13,736,000.00
For payment of advances and for pledge	7,251,000.00
For pledge	150,613,850.00
For refunding purposes	5,354,500.00
For reimbursement of treasury for capital expenditures not capitalized	149,000.00
For reimbursement of treasury for moneys used to retire, refund, or pay existing bonds	7,660,500.00
For retention in treasury, subject to further order	10,984,000.00
For sale to meet matured funded debt	11,166,000.00
Assumption of obligation and liability in respect of $68,724,500.	
Total	276,579,627.85
Total bonds	277,606,627.85
Notes, secured:	
For acquisition of equipment	80,066.15
For exchange for notes previously issued	1,591,314.53
For exchange for unmatured funded debt	34,500.00
For general corporate purposes (not segregated)	5,029,750.00
For refunding purposes	10,250.00
For sale to meet matured funded debt	14,650,000.00
Assumption of obligation and liability in respect of $21,874,805.24.	
Total	21,395,880.68
Notes, unsecured:	
For exchange for matured funded debt	15,000,000.00
For exchange for notes previously issued	49,025.00
For general corporate purposes (not segregated)	528,304.27
For payment of advances and for pledge	1,462,516.26
For pledge	1,000,000.00
For refunding purposes	1,156,000.00
Total	19,195,845.53
Total notes	40,591,726.21
Equipment obligations:	
Assumed by carriers	34,056,500.00
Assumption of obligation and liability in respect of $3,340,000.	
Certificates, receivers':	
For general purposes (not segregated)	10,000.00
For refunding purposes	604,350.00
Total	614,350.00
Certificates, trustees':	
For general purposes (not segregated)	7,400,000.00
For refunding purposes	10,030,000.00
Total	17,430,000.00
Total certificates	18,044,350.00

[1] Shares of stock without nominal or par value.

Authorization of the Issuance of Securities and the Assumption of Obligations and Liabilities, etc.—Continued.

Notes, trustees':	
For exchange for notes previously issued	$43,387.51
For general purposes (not segregated)	10,000.00
Total	53,387.51
Grand total securities	384,408,122.79
	[1] 1,300,752

[1] Shares of stock without nominal or par value.

Certificates of Approval of Loans Issued Under Section 5 of the Reconstruction Finance Corporation Act, as Amended

Carrier	Loan approved
Baltimore & Ohio R. R. Co	$8,233,000
Boston & Maine R. R	2,000,000
Carolina, Clinchfield & Ohio Ry. Co., lessees	[1] 14,150,000
Colorado & Southern Ry. Co	525,500
Do	[1] 546,500
Denver & Rio Grande Western R. R. Co., trustees	1,800,000
Galveston, Houston & Henderson R. R. Co	2,122,000
Lehigh Valley R. R. Co	778,000
New York Central R. R. Co	[2] 5,000,000
Pittsburgh & West Virginia Ry. Co	500,000
Salt Lake & Utah R. R. Corp	400,000
Southern Pacific Company	14,000,000
Southern Ry. Co	11,795,000
Do	[1] 14,000,000
Western Pacific R. R. Co., trustees	3,600,000
Wichita Falls & Southern R. R. Co	350,000
Total	[3] 79,800,000

[1] Purchase of securities of carrier by Reconstruction Finance Corporation.
[2] Guaranty of securities of carrier by Reconstruction Finance Corporation.
[3] Does not reflect reduction of $20,806 in the amount of loan approved to Gainesville Midland R. R. Co.

Status of Outstanding Loans Under Section 210, of the Transportation Act, 1920, as Amended

A. PRINCIPAL AMOUNT UNMATURED

Carrier	Amount
Seaboard A. L. Ry. Co	$750,000

B. PRINCIPAL AND INTEREST IN DEFAULT ON OCT. 1, 1938

Carrier	Principal	Interest
Alabama, T. & N. R. Corporation	$151,500.00	$40,905.00
Aransas H. T. Ry	44,304.67	16,028.43
Des Moines & C. I. R	633,500.00	413,150.78
Fort Dodge, D. M. & S. R. Co	200,000.00	107,164.91
Gainesville & N. W. R. Co.[1]	75,000.00	
Georgia & F. Ry., receiver	792,000.00	427,680.00
Minneapolis & St. L. R. Co	1,382,000.00	1,247,909.73
Missouri & N. A. Ry. Co.[1]	3,500,000.00	
Salt Lake & U. R. Co	872,600.00	732,984.00
Seaboard A. L. Ry. Co	13,690,577.88	6,563,819.72
Seaboard B.-L. Co	1,256,000.00	527,520.00
Virginia B. R. Ry. Co	106,000.00	79,329.29
Virginia S. R. Co.[1]	38,000.00	
Waterloo, C. F. & N. Ry. Co	1,260,000.00	1,202,355.91
Wichita N. W. Ry Co	381,750.00	332,122.50
Wilmington, B. & S. R. Co	90,000.00	45,900.00
Total	24,473,232.55	11,736,870.27

[1] Assets of these carriers have been completely liquidated, and were insufficient to meet these claims.

APPENDIX G

RAILROAD COMPANIES IN REORGANIZATION (OR RECEIVERSHIP) PROCEEDINGS

Item	Mileage operated 1937
Proceedings under section 77:	
Akron, Canton & Youngstown Ry	171
Alabama, Tennessee & Northern R. R	218
Arkansas Valley Interurban Ry. (electric)	58
Boston & Providence R. R.[1]	
Chicago & Eastern Illinois Ry	927
Chicago & North Western Ry	8,391
Chicago Great Western R. R	1,505
Chicago, Indianapolis & Louisville Ry	573
Chicago, Milwaukee, St. Paul & Pacific R. R	11,025
Chicago, Rock Island & Pacific Ry. (system)	8,138
Chicago, South Shore & South Bend R. R. (electric)[2]	90
Denver & Rio Grande Western R. R	2,580
Duluth, South Shore & Atlantic Ry. (system)	592
Erie R. R	2,449
Fonda, Johnstown & Gloversville R. R	60
Fort Smith, Subiaco & Rock Island R. R	40
Kansas City, Kaw Valley & Western Ry. (electric)	35
Louisiana & Northwest R. R	99
Meridian & Bigbee River Ry	50
Minneapolis, St. Paul & Sault Ste. Marie Ry	4,301
Missouri Pacific R. R. (system)	10,296
New York, New Haven & Hartford R. R. (system)	2,028
New York, Ontario & Western Ry	577
New York, Susquehanna & Western R. R	143
Oregon, Pacific & Eastern Ry	20
Reader R. R.[2]	22
St. Louis-San Francisco Ry	4,886
St. Louis Southwestern Ry. (system)	1,706
Savannah & Atlanta Ry	147
Spokane International Ry	164
Western Pacific R. R	1,208
Wilkes-Barre & Eastern R. R	83
Yosemite Valley Ry	78
Receivership proceedings (steam railroads):	
Alabama & Western Florida R. R	38
Bamberg, Ehrhardt & Waterboro Ry	14
California & Oregon Coast R. R	15
Central of Georgia Ry	1,927
Chicago, Attica & Southern R. R	154
Chicago, Springfield & St. Louis Ry	87
Colorado-Kansas Ry	23
Florida East Coast Ry	685
Fort Smith & Western Ry	250
Gainesville Midland Ry	74
Georgia & Florida R. R	408

[1] Operated by New York, New Haven & Hartford R. R. for account of the Boston & Providence R. R. Corporation.

[2] A plan of reorganization has been confirmed, property turned over to the reorganized company and the issue of securities provided for in the plan finally approved by the Commission.

Railroad Companies in Reorganization (or Receivership) Proceedings—Continued

Item	Mileage operated 1937
Receivership proceedings (steam railroads)—Continued.	
Georgia, Southwestern & Gulf R. R. (system)	36
Louisiana Southern Ry	52
Minneapolis & St. Louis R. R	1,528
Mobile & Ohio R. R	1,194
Nevada Copper Belt R. R	30
Norfolk Southern R. R	809
Pittsburg, Shawmut & Northern R. R	191
Richmond Cedar Works R. R	34
Rio Grande Southern R. R	174
Rutland R. R	407
Santa Fe, San Juan & Northern R. R	------
Seaboard Air Line Ry. (system)	4,371
South Dayton Ry	------
Tallulah Falls Ry	57
Virginia & Truckee Ry	68
Wabash Ry. (system)	2,727
Waco, Beaumont, Trinity & Sabine Ry	48
Wichita Northwestern Ry	99
Wilmington, Brunswick & Southern R. R	30
Winchester & Wardensville R. R	23
Wisconsin Central Ry.[3]	------
Yreka Western R. R	8
Receivership proceedings (electric railroads):	
Bamberger Electric R. R	37
Bellaire-South Western Traction Co.[4]	------
Chicago, Aurora & Elgin R. R	65
Chicago, North Shore & Milwaukee R. R	138
Cincinnati & Lake Erie R. R	130
Evansville & Ohio Valley Ry	40
Fort Dodge, Des Moines & Southern R. R	149
Indiana R. R	365
Lake Shore Electric Ry	129
New York, Westchester & Boston Ry	22
Salt Lake & Utah R. R	76
Sandusky, Fremont & Southern Ry	20
Southwest Missouri R. R	30
Wheeling & Western Ry.[4]	------

[3] Owned mileage 994 operated by Minneapolis, St. Paul & Sault Ste. Marie Ry., a subsidiary of the Canadian Pacific Ry.

[4] Mileage of 2 and 7 miles, respectively, of the Bellaire-South Western Traction Co. and the Wheeling & Western Ry. is operated by the Cooperative Transit Co.

APPENDIX H

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1938

An act making appropriations for the executive, etc., approved June 28, 1937:

For 11 commissioners, secretary, and for all other authorized expenditures necessary in the execution of laws to regulate commerce, including 1 chief counsel, 1 director of finance; and 1 director of traffic at $10,000 each per annum:

General $2,544,000.00

To enable the Interstate Commerce Commission to enforce compliance with sec. 20 and other sections of the act to regulate commerce as amended by the act approved June 29, 1906, and as amended by the Transportation Act, 1920, including the employment of necessary special accounting agents or examiners:

Accounts 852,000.00

To enable the Interstate Commerce Commission to keep informed regarding and to enforce compliance with acts to promote the safety of employees and travelers upon railroads: the act requiring common carriers to make reports of accidents and authorizing investigations thereof; and to enable the Interstate Commerce Commission to investigate and test appliances intended to promote the safety of railway operation as authorized by the joint resolution approved June 30, 1906, and the provision of the Sundry Civil Act, approved May 27, 1908 to invstigate test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation, inspectors, etc.:

Safety of employees 506,000.00

For all authorized expenditures under sec. 26 of the act to regulate commerce as amended by the Transportation Act, 1920, with respect to the provision thereof, under which carriers by railroad subject to the act may be required to install automatic train-stop or train-control devices which comply with specifications and requirements prescribed by the Commission, including investigations and tests pertaining to block-signal and train-control systems as authorized by the joint resolution approved June 30, 1906, and including the employment of the necessary engineers:

Signal and train control devices 41,500.00

For all authorized expenditures under the provisions of the act of Feb. 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto," as amended by the act of Mar. 4, 1915, extending "the same powers and duties with respect to all parts and appurtenances of the locomotive and tender" and amendment of June 7, 1924, providing for the appointment from time to time by the Interstate Commerce Commission of not more than 15 inspectors in addition to the number authorized in the first paragraph of sec. 4 of the act of 1911, and the amendment of June 27, 1930, including such legal, technical, stenographic, and clerical help as the business of the offices of the chief inspector and his 2 assistants may require:

Locomotive inspection---------- $471,000.00

To enable the Interstate Commerce Commission to carry out the objects of the act entitled "An act to amend an act entitled 'An act to regulate commerce' approved Feb. 4, 1887, and all acts amendatory thereof," by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities, approved Mar. 1, 1913, including 1 director of valuation at $10,000 per annum:

Valuation---------- 700,000.00

To enable the Interstate Commerce Commission to perform the duties imposed upon it by the act approved June 12, 1934, entitled, "An act to revise air-mail laws, and to establish a Commission to make a report to the Congress recommending an aviation policy" (U. S. C., Supp. VII, title 39, secs. 469–469q), as amended by the act approved Aug. 14, 1935, entitled "An act to amend the air-mail laws and to authorize the extension of the Air Mail Service" (49 Stat., p. 614–619), including field hearings, field audits, traveling expenses, contract stenographic reporting service; office supplies and equipment; purchase and exchange of books, reports, and periodicals:

Air mail---------- 200,000.00

For all authorized expenditures necessary to enable the Interstate Commerce Commission to carry out the provisions of the Motor Carrier Act, approved August 9, 1935 (49 Stat., pp. 543–567), including 1 director at $10,000 per annum and other personal services in the District of Columbia and elsewhere; traveling expenses; supplies, services and equipment; not to exceed $1,000 for purchase and exchange of books, reports, and periodicals; contract stenographic reporting services; purchase (not to exceed $6,500), exchange, maintenance, repair, and operation of motor-propelled passenger-car-

rying vehicles when necessary for official use in field work; $2,450,000; of which amount not exceeding $75,000 may be expended for rent in the District of Columbia if Government-owned facilities are not available: *Provided*, That joint board members may use Government transportation requests when traveling in connection with their duties as joint board members.		
Motor Transport Regulation	$2,450,000.00	
First deficiency act 1938 (Public, No. 440, 75th Cong.)	300,000.00	
		$2,750,000.00
For all printing and binding for the Interstate Commerce Commission, including reports in all cases proposing general changes in transportation rates and not to exceed $10,000 to print and furnish to the States, at cost, report form blanks, and the receipts from such reports and blanks shall be credited to this appropriation, $175,000: *Provided*, That no part of this sum shall be expended for printing the Schedule of Sailings required by section 25 of the Interstate Commerce Act		175,000.00
Total		8,239,500.00
Amount obligated under appropriations for the fiscal year ended June 30, 1938:		
General		2,468,598.51
Accounts		774,283.40
Safety		493,322.37
Signal and train control devices		38,661.18
Locomotive inspection		464,207.44
Valuation		679,614.77
Air mail		196,447.12
Motor transport regulation		2,677,095.59
Printing and binding		160,363.90
Total		7,952,594.28
Unobligated balances of appropriations:		
General	75,401.49	
Accounts	77,716.60	
Safety	12,677.63	
Signal and train control devices	2,838.82	
Locomotive inspection	6,792.56	
Valuation	20,385.23	
Air mail	3,552.88	
Motor transport regulation	72,904.41	
Printing and binding	14,636.10	
		286,905.72
Total		8,239,500.00
Statement of receipts from fees paid during the fiscal year ended June 30, 1938, as required by sec. 313 of Public, No. 212, 72d Congress:		
Certifying tariffs and records		3,944.90

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